

I hereby certify that the Minutes of the Ordinary Council Meeting held are a true and accurate record of the proceedings contained therein.

Shire President

Date



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES
ORDINARY COUNCIL
MEETING**

23 June 2015

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**SHIRE OF WYNDHAM EAST KIMBERLEY
MINUTES OF THE ORDINARY COUNCIL MEETING
KUNUNURRA COUNCIL CHAMBERS**

HELD ON TUESDAY, 23 JUNE 2015 AT 5:00 PM

1. DECLARATIONS OF OPENING / ANNOUNCEMENT OF VISITORS

The Shire President declared the meeting open at 5:01pm.

**2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE)
PREVIOUSLY APPROVED**

ATTENDANCE

Cr J Moulden	Shire President
Cr R Dessert	Deputy Shire President
Cr D Learbuch	Councillor
Cr K Wright	Councillor (leaves the meeting at 7.21pm)
Cr B Robinson	Councillor
Cr D Spackman	Councillor
Cr G King	Councillor
Cr G Taylor	Councillor
Cr S Cooke	Councillor

C Askew	Chief Executive Officer
L Gee	Director Community Development
N Octoman	Director Corporate Services
D Klye	Director Infrastructure
M Tonkin	Executive Assistant (Minute Taker)

GALLERY

Wayne Richards	SWEK employee
Ebony Danielle	SWEK employee
Felicity Heading	SWEK employee
John Piercey	SWEK employee
Veronica Gulland	SWEK employee
Kirsty Bellamy	Resident
Amy Freeth	Resident
Rhonda Guerinoni	Ratepayers Association
Jenny Spragg	Ratepayer
Simone Rushby	Ratepayer
Mark Northover	Ratepayer
Rob Storey	Ratepayer
Geoff Warnock	Ratepayer
Alma Petherick	Ratepayer
Anthea Thomson	Ratepayer
Lydia O'Sullivan	Ratepayer

APOLOGIES

Nil

LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

3. DECLARATION OF INTEREST

- **Financial Interest**

Councillor	Item	Title	Description of interest
D Spackman	13.3.7	Submission to the Department of Racing Gaming and Liquor following public advertising of a liquor licence application	Indirect financial identified in report to Council
S Cooke	16.1	T09 14/15 Kalumburu Road – Port Warrender Road opening grade, and maintenance grade	Husband owns and operates a contracting business with no machinery used to grade roads

- **Impartiality Interest**

Councillor	Item	Title	Description of interest
K Wright	13.3.4	Kununurra Agricultural Society Temporary Caravan Park Licence 1 July – 14 July 2015.	Life member of society
K Wright	13.3.5	Kununurra Agricultural Society Temporary Caravan Park Licence May – October 2015.	Life member of society
K Wright	13.3.8	Kununurra Agricultural Society Temporary Caravan Park Licence: Loritz Circus.	Life member of society
K Wright	13.3.9	Development Application for Change of Use to include Motor Vehicle Repair at Lot 103 Bull Run Road, Kununurra	Owner of the property that is a close neighbour
K Wright	13.3.10	Lot 504 Portion of Reserve 29799, Coolibah Drive, Kununurra	Life member of society
S Cooke	13.3.11	Kununurra Bushmen's Rodeo Association Temporary Caravan Park Licence	Treasurer of the Rodeo Association.
D Learbuch	13.3.7	Submission to the Department of Racing Gaming and Liquor following public advertising of a liquor licence application	I am employed by a company that also owns a company that has an interest in this matter

Councillor	Item	Title	Description of interest
R Dessert	13.3.4	Kununurra Agricultural Society Temporary Caravan Park Licence 1 July – 14 July 2015	Life member of KAS
R Dessert	13.3.5	Kununurra Agricultural Society Temporary Caravan Park Licence May – October 2015	Life member of KAS
R Dessert	13.3.6	Lakeside Resort Lease	Good friend
R Dessert	13.3.7	Submission to the Department of Racing Gaming and Liquor following public advertising of a liquor licence application	Licensee
R Dessert	13.3.8	Kununurra Agricultural Society Temporary Caravan Park Licence: Loritz Circus	Life member of KAS
R Dessert	13.3.10	Lot 504 Portion of Reserve 29799, Coolibah Drive, Kununurra	Life member of KAS
R Dessert	17.1	Request for write off of waste receptacle charges – rates assessment A1160	Member
G Taylor	13.1.4	Customer Services and Complaint Management Policies	Probably complaints against me
G Taylor	13.3.3	Draft Policy CP_PMG-3780 Leasing of Council Managed Reserve – Community	Member of clubs may lease land in future
G Taylor	13.3.4	Kununurra Agricultural Society Temporary Caravan Park Licence 1 July – 14 July 2015	Former winner of 'Best Savoury Muffin' and Ag show supporter
G Taylor	13.3.5	Kununurra Agricultural Society Temporary Caravan Park Licence May – October 2015	Former winner of 'Best Savoury Muffin' and Ag show supporter
G Taylor	13.3.8	Kununurra Agricultural Society Temporary Caravan Park Licence: Loritz Circus	Former winner of 'Best Savoury Muffin' and Ag show supporter
G Taylor	13.3.10	Lot 504 Portion of Reserve 29799, Coolibah Drive, Kununurra	Former winner of 'Best Savoury Muffin' and Ag show supporter
G Taylor	17.1	Request for write off of waste receptacle charges – rates assessment A1160	Member of club

- **Proximity Interest**

Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Mark Northover, 26 May 2015 Ordinary Council Meeting

Why have the long standing Councillors forgotten and allowed the departing Senior Management to ignore tabled partitions on the safety and emergency concerns of residents, engineers and ratepayers on Mulligans Lagoon Road surface which failed back in 2010 and noting the Council Decision Minute No. 9463?

A petition regarding Mulligans Lagoon Road was noted by the Council at its meeting in May 2011. At the same meeting, Council resolved to consider inclusion of works to the Mulligans Lagoon Road in budget deliberations. Funds were subsequently provided for the maintenance of the road in the 2011/12 budget.

Infrastructure staff have managed the care and maintenance of Mulligans Lagoon Road in accordance with standard Shire practice prevailing at the time. Such practice would take into account, among other things, the changing condition of roads and funding priorities throughout the Shire.

If stage one of Mulligans lagoon road was started in the budget in 2011/2012, why has councils safety and risk management priorities not recognised this in 2012/2013 and again in 2013/2014 knowing that budgeted projections \$1.906,594,000 over 5 years was to be programmed for implantation?

The reason that the Shire has not recognised Mulligans Lagoon Road as a first priority for reconstruction funding following the 2011/12 financial year is due to the subsequent changing condition of roads and funding priorities throughout the Shire.

As significant funds have been spent on the following roads – Carlton Hill road, Mulligans Lagoon road, Egret close, Weero road, Research Station road and the Mitchell Plateau road. Given that appropriate modelling can only be achieved with traffic counts and data. Can I have the results of the formal traffic count and data used for the above mentioned roads?

Average daily counts:

Carlton Hill road, 64.1 vpd

Mulligans Lagoon road, 94.7 vpd

*Egret close, 136 vpd**

**Note, due to construction occurring on Egret close during the counting period, traffic volumes were artificially inflated during the survey period.*

Weero road, 76.9 vpd

Research Station road, 47.5 vpd

*Mitchell Plateau road, 27 vpd**

**Note, due to failure of the counter during the survey period, this figure cannot be relied upon. Previous counts put traffic volumes at approx. double this amount.*

Simone Rushby, 26 May 2015 Ordinary Council Meeting

Can council please advise the number of residents that have been diagnosed with Ross River virus in the last 2 years, given that I know personally of in excess of one dozen – all diagnosed locally?

The number of diagnoses where the virus was contracted within the Shire of Wyndham East Kimberley as notified to us from the Department of Health is as follows:

2015 – 12 (up to 25/05/15)

2014 – 12

2013 – 6

5. PUBLIC QUESTION TIME

Public Question Times commences at 5.07pm.

Questions from Jenny Spragg, Kununurra

Question 1 – Please provide an itemise account for the money spent to open Kelly's Knob walking track. Please include:

1. How many contractors were used?
2. Which companies? Cost?
3. SWEK staff numbers and cost per hour?
4. What materials were used / how much and cost of materials?
5. Machinery hire?
6. Planning costs / time?
7. Any drafting costs?

D Klye, Director Infrastructure provides the following response:

The costs charged to the Kellys Knob Walking track were reviewed in detail and as a result of this review a fault in the Shire's accounting software has become apparent.

The Shire's Synergy system showed an initial cost of \$7,951 for Kelly's Knob Walking Track. However, the system review showed the costs to be \$10,004 ex GST. The error in reporting appears to have occurred as a result of an upgrade fault in the IT Vision software. The fault has been logged with the software provider.

In direct response to Ms Spragg's questions :-

Accounting for the project has not been finalised but at this stage the following can be reported;

1. *How many contractors were used? One contractor was employed at a cost of \$1,913*
2. *Which companies? Cost? The companies used as part of this project were East Kimberley Engineering, Crocodile Signs Pty Ltd and Frontier Fencing at a total cost of \$2,956*
3. *SWEK Staff numbers & cost per hour? Three outdoor staff have charged their time to the Kelly's Knob walking track project. The internal cost for labour and Shire plant charged to the project is \$6,578 including on costs and depreciation.*

4. *What materials were used/how much & cost of Materials? Materials used on the project included one set of gates, hardware, one sign and a shovel at a cost of \$1,209.*
5. *Machinery hire? A generator was hired at a cost of \$183.*
6. *Planning costs/time? Planning for the project was largely undertaken by office staff who do not record their time against specific tasks.*
7. *Any drafting costs? There are no drafting costs attributable to this project.*

Additional to these costs was the cost of a Building Permit at a cost of \$120.

Question 2 - Have any of the qualified or experienced traffic management officers or councillors identified the safety risk with the first regulatory traffic speed sign after the diversion dam (heading towards KNX) which was recently relocated by Main Roads WA? Please answer yes or no.

D Klye, Director Infrastructure provides the following response:

The issue is a matter entirely for Main Roads WA and the answer is no.

Jenny Spragg, further question:

Even though it is a main roads problem, now it has been brought to the Council's attention, what does the Council intend to do to remedy this issue and ensure the safety of the community when exiting the bridge?

D Klye, Director Infrastructure provides the following response:

I am aware of the situation. I had no intention of doing anything about it but as the matter has been raised, I will speak to Main Roads.

Question from Jane Parker, Wyndham

Question 1 - I understand the council have gone ahead with \$750k without GST of road works in Kununurra that was not in this year's budget or plan road works, is this unscheduled work?

Why is money (that we the rate payers don't have (deficit budget)) being spent on carparks and service roads that could have waited? Particularly when there are playgrounds in Wyndham that are closed though neglected, and now the parks and cemetery's in Wyndham are not being watered or maintained?

Last year the roads outside the Kununurra post office and Kimberley Fine Diamonds were resurfaced, can council confirm how often these roads have been worked on? Does this time-frame reflect the expected use by dates of the new works?

Can council please identify how much has been allocated within 2014/2015 and 2015/2016 budgets and in what time-frame for the works to be completed on Wyndham's roads and infrastructure?

If we are talking about budgeting and best use of resources, each morning in Wyndham a shire employee is picking up rubbish in Koolama Street in front of the shire office which is directly opposite the only fast food outlet that is open at night, I

would like to point out that there is nowhere on Koolama Street that there is a bin, so where else are people supposed to put their rubbish?

Staff Appointment in Wyndham; My understanding is that a position is being created for the shire depot team leader's wife in Wyndham, please tell me that this is not so, as I would imagine that if there was such a position the position would be advertised and I also understand that spouses/family cannot be employed in the same department due to conflict of interest.

Cr J Moulden, Shire President takes the question on notice as Jane Parker is not at the meeting.

As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.

Questions from Michelle Coucaud, Kununurra

Question 1 - Why is the current 2014/15 supporting evidence not included as Agenda items, such as the 250 signed Support Statements and the Project Plan for the Caravan Park showing all the costings and effort the Ag. Society and other local businesses have made this year to satisfy the SWEK requirements, including pending grant applications for the improvements?

Question 2 - Why has the Shire never confirmed that KAS do not receive any subsidies, discounts or financial support from SWEK that are not otherwise available to any other non for profit organisation or affiliated Royal Agricultural Society?

Cr J Moulden, Shire President takes both questions on notice as Michelle Coucaud is not at the meeting.

As per the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, 2.3(3) a response will be given to the member of the public in writing by the CEO, and a summary of the question raised and the response given are to be included in the agenda and minutes of the next meeting of the Council.

Question from Kristy Bellamy, Kununurra

Why has the zebra crossing from outside the school gone when it was there yesterday?

P Kerp, Manager Engineering Services provides the following response:

Main Roads WA(MRWA) did not approve the zebra crossing when approving the lines and signs design for this project. During recent road works markings for a zebra crossing were put on a speed hump without MRWA approval and therefore it had to be removed. We are currently obtaining information to give to Main Roads WA to try and obtain approval for the zebra crossing. Local Government's cannot install these without Main Roads approval as zebra crossings are a regulatory pavement marking. We will install an advisory speed hump sign, advising of a 20km speed limit. The sign that will go up is a top hat sign, diamond shaped, black on a yellow background. This is an advisory sign not a regulatory sign and it will be erected as soon as possible. I cannot give a guarantee of a zebra crossing being installed as it has to satisfy the criteria requirements of MRWA..

Question from Geoff Warnock, Kununurra

Is the shire going to be able to pass a balanced Budget this year? If yes – is that through the proposed rate increase? If no – If a balanced budget is not going to be achieved – what is the plan to resolve the imbalance. It seems we are increasing the rates continuously to compensate for unmanaged expenditure – is there a long term plan to curb this and avoid constant blow outs?

N Octoman, Director Corporate Services provides the following response:

We are currently still preparing the budget for 15/16 and are hoping it will be balanced. We are still going through this process with the elected members and are not at the point where we can say if it will be in balance or not. I am anticipating the budget will be adopted prior to the 31 August and am aiming for the 2nd or 3rd week of August.

Public Question Times concludes at 5.18pm.

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. PETITIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 CONFIRMATION OF MINUTES OF ORDINARY COUNCIL MEETING OF 26/05/2015

RECOMMENDATION

That Council confirms the Minutes of the Ordinary Council Meeting held on 26/05/2015

COUNCIL DECISION

Minute No. 10970

**Moved: Cr B Robinson
Seconded: Cr D Learbuch**

That Council confirms the Minutes of the Ordinary Council Meeting held on 26/05/2015.

Carried Unanimously 9/0

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

Nil

10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil

11. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

12. MINUTES OF COUNCIL COMMITTEE MEETINGS

Nil

13. REPORTS

13.1 CORPORATE SERVICES

13.1.1 Monthly Financial Report

DATE:	15/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Natalie Octoman, Director Corporate Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.09.5
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

For Council to receive the monthly financial report for May 2015.

BACKGROUND

Council is required to prepare monthly financial reports as required by *the Local Government (Financial Management Regulations) 1996*.

STATUTORY IMPLICATIONS

Section 6.4 Local Government Act 1995
Regulation 34, Local Government (Financial Management) Regulations 1996.

POLICY IMPLICATIONS

No policy implications apply in the preparation of the report.

FINANCIAL IMPLICATIONS

Monthly financial reporting is a primary financial management and control process, it provides the Council with the ability to oversee the Shire's financial performance against budgeted target.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY CONSULTATION

Community consultation is not required in relation to this item.

COMMENT

Comments in relation to budget to actual variances are included as a note in the Financial Report.

ATTACHMENTS

Attachment 1 - Monthly Management Report as at 31 May 2015

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Monthly Financial Report for the month of May 2015.

COUNCIL DECISION

Minute No. 10971

**Moved: Cr B Robinson
Seconded: Cr K Wright**

That Council receives the Monthly Financial Report for the month of May 2015.

Carried Unanimously 9/0



Shire of Wyndham East Kimberley

Monthly Financial Report 2014/2015

As at 31 May 2015

Contents:

- Statement of Financial Activity
- Note to Statement of Financial Activity (Net Current Asset Position)
- Note to Statement of Financial Activity (Explanation of Material Variances)
- Note to Statement of Financial Activity (Budget Remaining to Collect/Spend)
- Monthly Report on Investment Portfolio (Cash)

Financial Activity Legend:
Above Budget Expectations: ▲
Below Budget Expectations: ▼

Shire of Wyndham East Kimberley

Statement of Financial Activity Year to Date Actual v Year to Date Budget as at 31 May 2015

	YTD Actual 2014/15 \$	YTD Budget 2014/15 \$	YTD Variance 2014/15 \$	%	
Revenue					
General Purpose Funding	4,430,103	4,388,421	41,682	1%	▲
Governance	1,056,069	1,098,212	(42,143)	-4%	▼
Law, Order, Public Safety	55,170	56,134	(964)	-2%	▼
Health	71,659	64,906	6,753	10%	▲
Education and Welfare	84,212	96,134	(11,922)	-12%	▼
Housing	178,731	180,367	(1,636)	-1%	▼
Community Amenities	2,333,043	2,365,257	(32,214)	-1%	▼
Recreation and Culture	766,431	707,072	59,359	8%	▲
Transport	6,814,720	7,511,027	(696,307)	-9%	▼
Economic Services	72,504	92,085	(19,581)	-21%	▼
Other Property and Services	214,749	179,471	35,278	20%	▲
	<u>16,077,391</u>	<u>16,739,086</u>	<u>(661,695)</u>	<u>-4%</u>	<u>▼</u>
Expenses					
General Purpose Funding	(419,897)	(502,449)	82,552	-16%	▼
Governance	(1,251,213)	(1,542,083)	290,870	-19%	▼
Law, Order, Public Safety	(456,659)	(518,323)	61,664	-12%	▼
Health	(264,399)	(274,423)	10,024	-4%	▼
Education and Welfare	(295,698)	(314,380)	18,682	-6%	▼
Housing	(601,103)	(629,869)	28,766	-5%	▼
Community Amenities	(3,692,837)	(4,299,148)	606,311	-14%	▼
Recreation & Culture	(5,388,367)	(6,113,255)	724,888	-12%	▼
Transport	(10,406,250)	(10,978,284)	572,034	-5%	▼
Economic Services	(418,490)	(464,505)	46,015	-10%	▼
Other Property and Services	(1,442,871)	(1,354,435)	(88,436)	7%	▲
	<u>(24,637,784)</u>	<u>(26,991,154)</u>	<u>2,353,370</u>	<u>-9%</u>	<u>▼</u>
Adjustments for Cash Budget Requirements:					
Non-Cash Expenditure and Revenue					
(Profit)/Loss on Asset Disposals	389,448	444,955	(55,507)	-12%	▼
Movement in Accruals and Provisions	(489,094)	5,000	(494,094)	-9882%	▼
Depreciation on Assets	5,284,756	5,323,041	(38,285)	-1%	▼
Capital Expenditure and Revenue					
Purchase Land Held for Resale	0	0	0	0%	▲
Purchase Land and Buildings	(529,015)	(752,846)	223,831	-30%	▼
Purchase Infrastructure Assets - Roads	(1,281,522)	(1,795,949)	514,427	-29%	▼
Purchase Infrastructure Assets - Footpaths	(5,894)	(5,905)	11	0%	▼
Purchase Infrastructure Assets - Drainage	(59,924)	(336,143)	276,219	-82%	▼
Purchase Infrastructure Assets - Other	(769,109)	(1,454,719)	685,610	-47%	▼
Purchase Plant and Equipment	(7,030)	(125,642)	118,612	-94%	▼
Purchase Furniture and Equipment	(35,686)	(83,826)	48,140	-57%	▼
Grants / Contributions for Development of Assets	5,695,382	5,812,118	(116,736)	-2%	▼
Proceeds from Disposal of Assets	57,204	83,069	(25,865)	-31%	▼
Proceeds from Sale of Land Held for Resale	0	0	0	0%	▼
Repayment of Debentures	(2,118,685)	(2,161,908)	43,223	-2%	▼
Proceeds from New Debentures	1,500,000	1,500,000	0	0%	▼
Transfers to Reserves (Restricted Assets)	(3,118,644)	(3,747,257)	628,613	-17%	▼
Transfers from Reserves (Restricted Assets)	0	616,998	(616,998)	-100%	▼
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,397,052)	(1,397,052)	0	0%	▲
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	3,829,272	898,403	2,930,870	326%	▼
Amount Required to be Raised from Rates	<u>9,274,531</u>	<u>9,226,536</u>	<u>47,995</u>	<u>1%</u>	<u>▲</u>

Shire of Wyndham East Kimberley

Note to Statement of Financial Activity

Net Current Assets

as at 31 May 2015

Composition of Estimated Net Current Asset Position

	YTD Actual 2014/15	Brought Forward 1 July 2014
CURRENT ASSETS		
Cash - Municipal (Restricted & Unrestricted)*	2,672,864	652,355
Cash - Restricted Reserves	11,381,999	8,263,354
Receivables	1,141,014	1,727,680
Inventories & Other Financial Assets	9,249	17,037
	<u>15,205,125</u>	<u>10,660,427</u>
LESS: CURRENT LIABILITIES		
Payables and Provisions	6,145	(3,794,124)
Less:		
Restricted - Reserves	(11,381,999)	(8,263,354)
NET CURRENT ASSET POSITION	<u>3,829,272</u>	<u>(1,397,052)</u>
Less:		
Restricted - Unspent Grants	(866,016)	(2,093,999)
Restricted - Unspent Loans	(1,486,572)	(1,566,965)
ADJUSTED NET CURRENT ASSET POSITION	<u><u>1,476,684</u></u>	<u><u>(5,058,016)</u></u>

* **Cash - Municipal brought forward balances represented by:**

Cash on Hand	1,700	1,700
Cash at Bank - Municipal		
Unrestricted	318,576	(3,010,309)
Restricted - Unspent Grants	866,016	2,093,999
Restricted - Unspent Loans	1,486,572	1,566,965
	<u>2,672,864</u>	<u>652,355</u>

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 31 May 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Operating

Recurrent Income - Excluding Rates

Rates

No material variances to report

General Purpose Funding

Interest Income - Reserve Fund

▲

26,600

▲ Timing variance, will come in line next month.

Governance

LGIS Members Experience Income - Other Governance

▼

- 45,000

▼ Reduction in income anticipated for 2014/15 due to underspend on risk related matters that may be recouped from LGIS.

Law, Order and Public Safety

No material variances to report

▼

Health

No material variances to report

▲

Education and Welfare

No material variances to report

▼

Housing

No material variances to report

▼

Community Amenities

No material variances to report

▼

Recreation and Culture

Foreshore Leases

▲

- 25,500

▼ Reduced income for 2014/15. Lease agreement yet to be signed, negotiating with lessee.

Wyndham Community Resource Centre (CRC) - Operating Grant Income

25,000

▲ Timing variance. Income received ahead of budget.

Wyndham Community Resource Centre (CRC) - RIPIA Grant Income

24,400

▲ Grant income received that was not budgeted in 2014/15, expenditure will be undertaken in 2015/16.

Transport

WANDRRA Funding - Monsoonal Trough and Associated Flooding

▼

- 430,700

▼ The processing of the final claims and payments has been delayed, the funds are expected next month.

Passenger Head Tax - East Kimberley Regional Airport

- 177,400

▼ Lower income than budgeted. May and June invoicing yet to be applied.

Passenger Screening Fees - East Kimberley Regional Airport

- 66,400

▼ Lower income than budgeted. May and June invoicing yet to be applied.

Leases - East Kimberley Regional Airport Terminal

- 21,800

▼ Lower income than budgeted. Delay in May invoicing will be in line next month.

Economic Services

No material variances to report

▼

Other Property and Services

Private Works Income (GST Applicable)

▲

30,000

▲ Partial timing variance. Additional income of \$15k received in excess of budget.

Recurrent Expenditure

General Purpose Funding

Write Offs - Rates

▼

39,600

▼ Potential write-offs are yet to be presented to the Audit (Finance and Risk) Committee, which will not occur until 2015/16.

Valuation Expenses - Rates

26,800

▼ Savings of \$15k and timing variance. Invoice received in June for UV revaluations instead of May as anticipated.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 31 May 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure (continued)

Governance

Write Offs (as approved by Council)

114,100 ▼ Timing variance. Awaiting final report from liquidator of budgeted write-offs. Likely not to occur until 2015/16.

Legal Fees

39,000 ▼ Timing variance. Work has been initiated, but awaiting invoices. Likely to carry some over to 2015/16.

Re-Valuation Expenses - Fair value

100,000 ▼ Project to be deferred to 2015/16.

Law, Order and Public Safety

No material variances to report

Health

No material variances to report

Education and Welfare

No material variances to report

Housing

No material variances to report

Community Amenities

Tip Maintenance

94,700 ▼ Expect savings in 2014/15 due to capping and covering maintenance occurring during dry season.

Refuse Collection

140,300 ▼ Expect savings in 2014/15, invoice is in arrears by approx. 2 months.

Administration Salary and Wages Allocated - Sanitation - Household Refuse

24,100 ▼ Non cash item. Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date.

Admin Overheads Allocated - Sanitation - Household Refuse

20,300 ▼ Non cash item. Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date.

Litter Control

32,200 ▼ Timing variance. Awaiting invoices for May 2015.

Street Tree Planting - Protection of Environment

40,200 ▼ Program not proceeding in 2014/15.

Waste Management Strategy - Protection of Environment

20,600 ▼ Expect savings of \$27k in 2014/15.

Consultants - Local Planning Strategy

49,000 ▼ Awaiting response to Local Planning Strategy from WA Planning Commission. Likely to carry some over to 2015/16.

Kununurra Business & structure Planning

27,500 ▼ Project to be continued in 2015/16.

Direct Salaries - Development Services

29,900 ▼ Direct salaries journal to be processed next month.

Cemetery Maintenance

28,300 ▼ Expect savings of \$35k in 2014/15.

Recreation and Culture

Building Maintenance - Peter Reid Memorial Hall

23,700 ▼ Expect savings of \$25k in maintenance due to insurance claim settlement received.

Pool Operating - Kununurra Swimming Complex

46,800 ▼ Expected savings of around \$40k, partly due to an improved maintenance regime.

Pool Operating - Wyndham Swimming Complex

42,400 ▼ Expected savings of around \$47k, partly due to an improved maintenance regime.

Building Maintenance - Wyndham Swimming Complex

24,600 ▼ Timing variance, major maintenance work commencing in June 2015.

Building Operating - Kununurra Leisure Centre

20,300 ▼ Partially offset with a variation in building maintenance, due to cleaning and security expenses. Expected savings of \$20k.

Direct Salaries - Kununurra Leisure Centre

27,600 ▼ Expect savings of \$38k in salaries and employee allowances in 2014/15.

Parks and Gardens Maintenance - Kununurra

200,900 ▼ Variance is due to delay in internal plant and labour overheads, these are internal costs only.

Parks and Gardens Maintenance - Wyndham

70,300 ▼ Variance is due to delay in internal plant and labour overheads, these are internal costs only.

Direct Salaries - Wyndham Community Resource Centre (CRC)

21,100 ▼ Expect savings of \$30k in salaries and employee allowances in 2014/15.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 31 May 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Recurrent Expenditure (continued)

Transport		▼	
Admin Overheads Allocated - Streets, Roads & Bridges - Non Capital	21,000	▼	Non cash item. Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date.
Rural Road Maintenance	258,100	▼	Tender works lack of interest has caused a delay in contractor works, this will result in expected savings of \$100k, internal charges also contribute to the overall result.
Urban Road Maintenance - Wyndham	26,800	▼	Expect savings of \$15k from materials and contracts.
D2 Drain Rehabilitation	89,600	▼	Project delayed, design in progress and work will be continued in to 2015/16.
Plant Operating Costs - East Kimberley Regional Airport	46,500	▲	Overall airport plant costs are offset by savings in other line items of approx.\$15k partially offset by internal plant costs of \$13k.
Consultancy Fees - East Kimberley Regional Airport	33,400	▼	Expect savings of \$33k.
Airport Grounds Maintenance - East Kimberley Regional Airport	24,800	▼	Savings from contractor costs and allocation of plant cost to other line items.
Airside Operations - East Kimberley Regional Airport	63,800	▼	Potential savings from contractors, expected to be approx. \$50k partially offset by internal allocated costs.
Economic Services		▼	
No material variances to report			
Other Property and Services		▲	
Private Works - Expenses	33,600	▼	Savings from contractor costs expected to be approx. \$30k for 2014/15, some private works jobs to be continued in to 2015/16. Private works expenses are offset by private works income.
Public Works Overheads Allocated - Payroll	136,300	▲	This variation is offset with savings in salaries across other depot programs. Due to the complexity of the allocation process only minimal adjustments were made during the budget review. Non-cash item.
Vehicle Expenses - Public Works	20,200	▲	Higher plant costs than expected, represents a unfavourable variance.
Grounds Maintenance - Kununurra Depot	23,800	▼	Expect savings of \$20k in salary/plant allocations and contractors.
Grounds Maintenance - Wyndham Depot	20,300	▼	Expect savings of \$10k in salary/plant allocations and contractors.
Direct Salaries - Operations	30,400	▼	Expect savings in salaries and employee allowances of \$35k.
Direct Salaries - Outdoor Workforce	84,400	▼	Expect savings in salaries and employee allowances.
Administration Salary and Wages Allocated - Public Works Overheads	22,800	▲	Non cash item. Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date.
Direct Salaries - Engineering and Technical	20,300	▼	Expect savings in salaries and employee allowances of \$25k.
Public Works Overheads Allocated - Contracts	24,000	▲	Under recoup of contract management costs, an internal allocation.
Administration Salary and Wages Allocated - General Administration Overheads	82,900	▲	Non cash item. Less allocation due to lower actual expenditure in the sub program and overall admin overhead less than anticipated as at reporting date.
Integrated Planning Framework (IPF) - Asset Management	41,700	▼	Project work likely to be continued in 2015/16.
ABC Allocations	127,700	▲	Under recoup of ABC costs, an internal allocation.
Software Licencing - Information Services	41,900	▼	Expect Savings of \$40k in 2014/15.
Plant Operating Cost Allocated	417,000	▼	Lower than expected recoup in plant costs allocated, internal costs only.
POC Internal Repair wages	55,400	▼	Savings in salaries and wages allocated, internal costs only.
POC Parts and Repairs	43,100	▼	Lower than expected plant costs allocated, internal costs only.
POC Tyres and Tubes	21,800	▼	Reduced costs expected savings.
Loss on Sale of Assets - Plant Operation	30,300	▼	Book loss on assets damaged by fire at Wyndham Depot. Insurance claim submitted.

Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 31 May 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Non Cash Expenditure and Revenue

Adjustments and Accruals

Loss on Sale of Assets - Plant Operation	- 30,300	▼	Book loss on assets damaged by fire at Wyndham Depot. Insurance claim submitted.
Movement in Accruals and Provisions	- 494,100	▼	Adjustments have been made to the provisions given that long service leave and other leave types are provided for, which have now been paid out.

Capital

Purchase Land Held for Resale

No material variances to report

Purchase Land and Buildings

Land Subdivision Costs SES Shed Land	46,100	▼	Project is almost at the final stage. Likely to be finalised in 2015/16.
Wyn depot fire damage reinstatement - Buildings	104,700	▼	Costs related to the Wyndham Depot fire damage. This project is behind budget. Will be continued in 2015/16.
Partial Flooring replacement - Terminal - East Kimberley Regional Airport	24,000	▼	Project delayed and expected to be undertaken in 2015/16.
Building Upgrade- Wyndham Administration	26,800	▼	Project partially complete and expected to be undertaken in 2015/16.

Purchase Infrastructure Assets - Roads

Kalumburu Road - Re-sheet	349,500	▼	Project delayed and expected to be undertaken in 2015/16.
Road Upgrade Carlton Hill Road	98,600	▼	Project delayed and expected to be undertaken in 2015/16.
Bridges (5116) - D4 Weaber Plain Rd	50,000	▼	Project delayed and expected to be undertaken in 2015/16. Relates to Main Roads funded works.

Purchase Infrastructure Assets - Footpaths

No material variances to report

Purchase Infrastructure Assets - Drainage

Drainage Upgrade (Design & Estimates)	182,300	▼	Project delayed and expected to be undertaken in 2015/16.
Divert collapsed drain under properties Mininata St	25,800	▼	Project delayed and expected to be undertaken in 2015/16.
Reinstate Drainage Entry Points to M1 from Weaber Plains Drains	66,100	▼	Project delayed and expected to be undertaken in 2015/16.

Purchase Infrastructure Assets - Other

Kununurra Landfill Site - Liquid Waste Facility	58,600	▼	Due to the current difficulty sourcing appropriately qualified contractors, project delayed and expected to be undertaken in 2015/16.
Wyndham Waste Water Treatment Facility	41,400	▼	Due to the current difficulty sourcing appropriately qualified contractors, project delayed and expected to be undertaken in 2015/16.
Welcome to Country Signage - East Kimberley Regional Airport MUN	23,900	▼	Project delayed and expected to be undertaken in 2015/16.
Airport Runway Extension Assessment and Business Case	94,400	▼	Work will commence in June, but final report may not be completed until July or August.
Landfill cover lids - Knx Landfill MUN	120,000	▼	No responses to public tender process has caused delay and deferred to 2015/16.
Lily Creek Lagoon Boat Ramp and Jetty	337,000	▼	Design in progress and expected to be delivered in 2015/16.

Purchase Plant and Equipment

Airport Plant - Purchase Price	60,000	▼	Plant to be purchased in 2015/16.
Light Plant - Purchase Price	55,600	▼	Plant to be purchased in June 2015.

Purchase Furniture and Equipment

System Development - Capital	22,400	▼	Partial savings of \$20k in 2014/15 and expected to carry over \$8k in to 2015/16.
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Shire of Wyndham East Kimberley

Notes to Statement of Financial Activity

For the Period Ended 31 May 2015

Explanation of Material Variances (between YTD Budget and YTD Actual)

Variances +/- \$50,000 at Financial Statement Level

Variances +/- \$20,000 and 10% at Account Level

Grants / Contributions for Development of Assets ▼

Aboriginal Roads Funding - State Grants	-	122,200	▼	Timing variance. Income based on progress claim for projects.
Regional Road Group Grants		158,900	▲	Timing variance. Income based on progress claim for projects.
Road to Recovery Grants		91,300	▲	Timing variance. Income based on progress claim for projects.
RADS Funding (Regional Airports Development Scheme) MUN	-	33,600	▼	Timing variance. Income based on progress claim for projects.
Grant Income - Lily Creek Lagoon Boat Ramp and Jetty	-	214,000	▼	Timing variance. Income based on progress claim for projects.

Proceeds from Disposal of Assets ▼

Insurance Claim Revenue - Wyndham Depot	-	30,000	▼	Timing variance. Claim lodged awaiting settlement in June 2015.
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Debentures ▼

New Loan - Administration Building - Principal Repayment		43,200	▼	Permanent variance, loan undertaken later than budgeted therefore savings in principal and interest repayments this year.
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Reserves ▼

No material variances to report				Reserve transfers will be undertaken at year end.
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Shire of Wyndham East Kimberley

Statement of Financial Activity Budget Remaining to Collect/Spend as at 31 May 2015

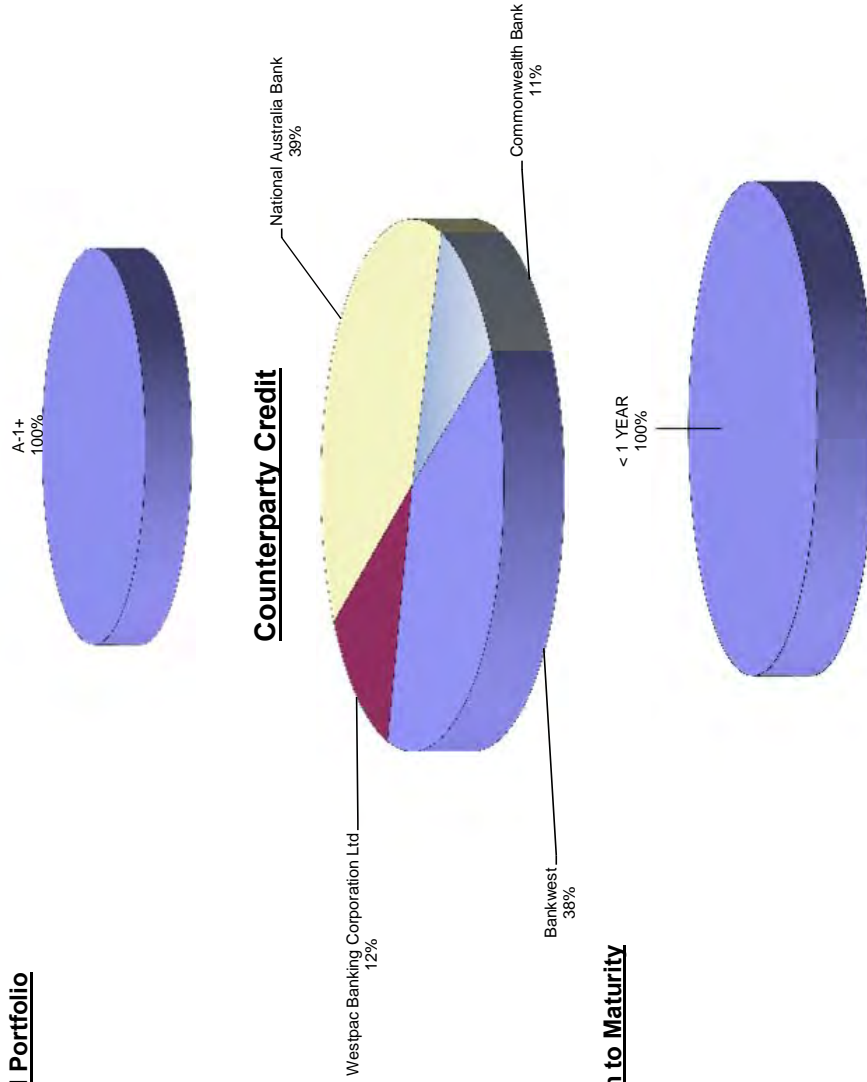
	YTD Actual 2014/15 \$	Revised Annual Budget 2014/15	Budget Remaining 2014/15 \$	%	
Revenue					
General Purpose Funding	4,430,103	4,420,177	(9,926)	0%	▲
Governance	1,056,069	1,099,542	43,473	4%	▼
Law, Order, Public Safety	55,170	58,350	3,180	5%	▼
Health	71,659	77,650	5,991	8%	▼
Education and Welfare	84,212	96,434	12,222	13%	▼
Housing	178,731	193,711	14,981	8%	▼
Community Amenities	2,333,043	2,479,788	146,745	6%	▼
Recreation and Culture	766,431	779,986	13,555	2%	▼
Transport	6,814,720	8,185,117	1,370,398	17%	▼
Economic Services	72,504	99,423	26,919	27%	▼
Other Property and Services	214,749	194,402	(20,347)	-10%	▲
	<u>16,077,391</u>	<u>17,684,581</u>	<u>1,607,190</u>	<u>9%</u>	<u>▼</u>
Expenses					
General Purpose Funding	(419,897)	(535,855)	(115,958)	22%	▼
Governance	(1,251,213)	(1,464,511)	(213,298)	15%	▼
Law, Order, Public Safety	(456,659)	(587,575)	(130,916)	22%	▼
Health	(264,399)	(300,930)	(36,531)	12%	▼
Education and Welfare	(295,698)	(332,757)	(37,059)	11%	▼
Housing	(601,103)	(695,787)	(94,684)	14%	▼
Community Amenities	(3,692,837)	(4,988,573)	(1,295,736)	26%	▼
Recreation & Culture	(5,388,367)	(6,833,801)	(1,445,434)	21%	▼
Transport	(10,406,250)	(11,838,503)	(1,432,253)	12%	▼
Economic Services	(418,490)	(503,172)	(84,682)	17%	▼
Other Property and Services	(1,442,871)	(1,344,324)	98,547	-7%	▲
	<u>(24,637,784)</u>	<u>(29,425,788)</u>	<u>(4,788,004)</u>	<u>16%</u>	<u>▼</u>
Adjustments for Cash Budget Requirements:					
Non-Cash Expenditure and Revenue					
(Profit)/Loss on Asset Disposals	389,448	451,621	62,173	14%	▲
Movement in Accruals and Provisions	(489,094)	5,000	494,094	9882%	▼
Depreciation on Assets	5,284,756	5,818,820	534,064	9%	▼
Capital Expenditure and Revenue					
Purchase Land Held for Resale	0	0	0	0%	▼
Purchase Land and Buildings	(529,015)	(816,560)	(287,545)	35%	▼
Purchase Infrastructure Assets - Roads	(1,281,522)	(2,373,096)	(1,091,574)	46%	▼
Purchase Infrastructure Assets - Footpaths	(5,894)	(36,910)	(31,016)	84%	▼
Purchase Infrastructure Assets - Drainage	(59,924)	(337,138)	(277,214)	82%	▼
Purchase Infrastructure Assets - Other	(769,109)	(1,746,305)	(977,196)	56%	▼
Purchase Plant and Equipment	(7,030)	(153,462)	(146,432)	95%	▼
Purchase Furniture and Equipment	(35,686)	(102,500)	(66,814)	65%	▼
Grants / Contributions for Development of Assets	5,695,382	6,218,439	523,057	8%	▼
Proceeds from Disposal of Assets	57,204	256,403	199,199	78%	▼
Proceeds from Sale of Land Held for Resale	0	0	0	0%	▼
Repayment of Debentures	(2,118,685)	(2,350,331)	(231,646)	10%	▼
Proceeds from New Debentures	1,500,000	1,803,218	303,218	17%	▼
Transfers to Reserves (Restricted Assets)	(3,118,644)	(4,488,742)	(1,370,098)	31%	▼
Transfers from Reserves (Restricted Assets)	0	1,287,637	1,287,637	100%	▼
ADD Estimated Surplus/(Deficit) July 1 B/Fwd	(1,397,052)	(1,397,052)	0	0%	▼
LESS Estimated Surplus/(Deficit) June 30 C/Fwd	3,829,272	(475,630)	(4,304,902)	905%	▲
	<u>9,274,531</u>	<u>9,226,536</u>	<u>(47,995)</u>	<u>-1%</u>	<u>▲</u>

MONTHLY REPORT ON INVESTMENT PORTFOLIO (CASH)

INVESTMENT POLICY - CP FIN - 3203

RESULTS AS AT 31 May 2015

Overall Portfolio



Overall Portfolio Limits"

S&P Long Term Rating	S&P Short Term Rating	Direct Investment Maximum %
A-1+	A-1+	100%
A-1	A-1	100%
A-2	A-2	60%

Note: "S & P" relates to Standard & Poor's credit rating agency

"Counterparty Credit Framework"

S&P Long Term Rating	S&P Short Term Rating	Direct Investment Maximum %
A-1+	A-1+	45%
A-1	A-1	35%
A-2	A-2	20%

"Term to Maturity Framework"

Overall Portfolio Term to Maturity Limits	Individual Investment Maturity Limits
Portfolio % < 1 year	100% max 40% min
Portfolio % > 1 year	60%
Portfolio % > 3 year	35%
Authorised Deposit Institution	12 Months
State/Commonwealth Government Bonds	3 years

Note: "ADI" relates to an Authorised Deposit Institution (authorised under the Banking Act 1959)

13.1.2 List of Accounts paid from Municipal and Trust Fund

DATE:	23 June 2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Victoria Nakamya, Creditors Officer Felicity Heading, Coordinator Financial Operations
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.09.5
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

To present the listing of accounts paid from the Municipal Fund and Trust Fund in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND

In accordance with the Delegations Register 2014/15 adopted by the Council on the 26th of August 2014, the Council has delegated to the CEO the exercise of its power under regulations 12 and 13 of the *Local Government (Financial Management) Regulations 1996* to make payments from Municipal Fund and Trust Fund.

STATUTORY IMPLICATIONS

Local Government Act 1995 – section 5.42

Local Government (Financial Management) Regulations 1996 – regulations 12 and 13

POLICY IMPLICATIONS

CD\GOV6113 – Payments from Municipal Fund and Trust Fund.

FINANCIAL IMPLICATIONS

Ongoing management of Council funds by providing the Council with sufficient information to monitor and review payments made.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.3: Maintain Council's long term financial viability

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

In accordance with statutory requirements, each payment from the Municipal Fund or the Trust Fund is to be noted on a list compiled each month showing: the payee's name, amount of payment, date of payment and sufficient information to identify the transaction. The list is to be presented to the Council at the next ordinary meeting of the Council following the preparation of the list and is to be recorded in the minutes of the meeting at which it is presented.

ATTACHMENTS

Attachment 1 - List of Accounts Paid from Municipal Fund and Trust Fund.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the listing of accounts paid from the Municipal and Trust funds, being:

Municipal EFT 123636 – 123845 (07 May – 28 May 15)	\$ 939,816.89
Municipal cheques 50860 - 50933 (07 May – 28 May 15)	\$ 173,595.23
Trust cheques 752 – 756 (07 May – 21 May 15)	\$ 67,572.00
Trust EFT 500935 – 500955 (29 April – 29 May 15)	\$ 17,291.60
Payroll (12 May – 27 May 15)	\$ 405,483.89
Direct bank debits (01 May – 27 May 15)	\$ 4,458.26
TOTAL	\$ 1,608,217.87

COUNCIL DECISION

Minute No.10972

Moved: Cr K Wright

Seconded: Cr D Learbuch

That Council receives the listing of accounts paid from the Municipal and Trust funds, being:

Municipal EFT 123636 – 123845 (07 May – 28 May 15)	\$ 939,816.89
Municipal cheques 50860 - 50933 (07 May – 28 May 15)	\$ 173,595.23
Trust cheques 752 – 756 (07 May – 21 May 15)	\$ 67,572.00
Trust EFT 500935 – 500955 (29 April – 29 May 15)	\$ 17,291.60
Payroll (12 May – 27 May 15)	\$ 405,483.89
Direct bank debits (01 May – 27 May 15)	\$ 4,458.26
TOTAL	\$ 1,608,217.87

Carried Unanimously 9/0

ATTACHMENT 1

LIST OF ACCOUNTS SUBMITTED TO COUNCIL 23 JUNE 2015

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
EFT123636	7/05/2015	ARRB GROUP LTD	COMPLETION OF HIGH SPEED ROAD CONDITION SURVEY	26,400.00
EFT123637	7/05/2015	ALL ABOUT CANVAS	BANNER FOR 2015 BANNERS IN THE TERRACE COMPETITION	118.80
EFT123638	7/05/2015	AUSTSWIM WA	COURSE ENROLMENT FEES - STAFF TRAINING	370.00
EFT123639	7/05/2015	BEST KIMBERLEY COMPUTING	PRINTING COSTS - KUNUNURRA AND WYNDHAM ADMIN - APRIL 15	2,289.68
EFT123640	7/05/2015	CENTURION TRANSPORT	FREIGHT- PER - KNX - SUPPLIES - KUNUNURRA DEPOT	84.50
EFT123641	7/05/2015	COATES HIRE OPERATIONS PTY LTD	GENERATOR HIRE - JETTY REPAIRS - CELEBRITY TREE PARK KUNUNURRA	128.30
EFT123642	7/05/2015	CROCODILE SIGNS PTY LTD	SIGNAGE - KELLY'S KNOB WALKING TRACK	278.30
EFT123643	7/05/2015	DSC CONTRACTING	MONTHLY TESTING OF FIRE ALARMS - APRIL 15 - KNX AIRPORT	132.00
EFT123644	7/05/2015	EAST KIMBERLEY GLASS	REPAIR BROKEN GLASS - KUNUNURRA LEISURE CENTRE	553.30
EFT123645	7/05/2015	EAST KIMBERLEY PLUMBING	REPAIRS - VARIOUS INCL.TOILET CISTERNS & BLOCKED SHOWERS VARIOUS LOCATIONS	3,185.36
EFT123646	7/05/2015	ENIGMA BUSINESS PRODUCTS	DESKTOP COMPUTER UPGRADES, MONITORS & DISPLAY STAND - KUNUNURRA ADMIN	20,722.90
EFT123647	7/05/2015	FARMERS FRUIT AND VEG MART	CATERING - CITIZENSHIP CEREMONY 23/03/2015	62.50
EFT123648	7/05/2015	GHD PTY LTD	CONSULTANCY - KNX RUNWAY WRKS APPL/HYDROL. ASSESSMNT OF LANDFILL SITES	22,109.45
EFT123649	7/05/2015	GYM CARE	ANTIBACTERIAL WIPES - KUNUNURRA LEISURE CENTRE GYM	242.00
EFT123650	7/05/2015	HIGHWAYS TRAFFIC PTY LTD	RFQ 26 14-15 - TRAFFIC MANAGEMENT PLAN & CONTROL DIAGRAMS - EGRET CLOSE	1,100.00
EFT123651	7/05/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - KUNUNURRA LEISURE CENTRE	134.20
EFT123652	7/05/2015	ICE AGE REFRIG. & AIRCOND.	REPAIRS TO COLD WATER DRINK UNIT - KUNUNURRA LEISURE CENTRE	148.50
EFT123653	7/05/2015	J & C ATKINS CONTRACTING P/L	LABOUR AND MATERIALS TO REPAIR AND RE-ERECT SHADE SAILS - WYNDHAM POOL	657.80
EFT123654	7/05/2015	KIMBERLEY MOTORS	SUPPLIES - VARIOUS INCL. ICE, CABLE TIES, RETIC FITTINGS - WYN DEPOT	501.50
EFT123655	7/05/2015	KUNUNURRA PANEL BEATING WKS	TOWING ABANDONED VEHICLES FROM VARIOUS LOCATIONS TO KNX LANDFILL	220.00
EFT123656	7/05/2015	KUNUNURRA SECURITY SERVICE	SECURITY MONITORING AND PATROL - KUNUNURRA ADMIN BUILDING	160.00
EFT123657	7/05/2015	L3 COMMUNICATIONS AUST. P/L	SERVICE & MAINT. 1/4/15- 1/4/16 - PASSENGER SCREENING EQUIPMENT EKR AIRPORT	4,146.78
EFT123658	7/05/2015	LANGFORD MACHINERY PTY LTD	REPAIRS - P351	1,120.00
EFT123659	7/05/2015	LENNYS LANDSCAPE	REMOVAL OF WEEDS, SUPPLY AND INSTALL MULCH TO GARDENS-STAFF HOUSING KNX	385.00
EFT123660	7/05/2015	LOCK, STOCK & FARRELL	KEY CUTTING - KEYED ALIKE MASTER PADLOCKS - FOR KNX AND WYN DEPOTS	949.20
EFT123661	7/05/2015	LANDGATE	VALUATION SCHEDULES - GROSS RENTAL & MINING TENEMENTS - FEB 15	209.26
EFT123662	7/05/2015	METALAND KUNUNURRA	SUPPLY PARTS FOR REPAIRING BOAT TIE UP - CELEBRITY TREE BOAT RAMP KNX	520.08
EFT123663	7/05/2015	MICHAEL PAGE INTERNATIONAL P/L	PROFESSIONAL RECRUITMENT SERVICES	4,943.82
EFT123664	7/05/2015	OUTBACK CLEANING	CLEANING - VACANT STAFF HOUSING PRIOR TO OCCUPANCY	220.00
EFT123665	7/05/2015	OFFICE NATIONAL KUNUNURRA	ARCHIVE BOXES - KUNUNURRA ADMIN AND KUNUNURRA LEISURE CENTRE	59.00

EFT123666	7/05/2015	ORD AGRICULTURAL EQUIPMENT	4 STROKE BRUSH CUTTER - KUNUNURRA DEPOT	550.00
EFT123667	7/05/2015	ORD FUEL SUPPLIES	FUEL COSTS - APRIL 15	9,651.65
EFT123668	7/05/2015	ORIA ORCHARDS	2X WREATHS FOR ANZAC DAY 2015	180.00
EFT123669	7/05/2015	PIVOTEL	SATELITE PHONE COSTS - APRIL 15	70.81
EFT123670	7/05/2015	RED SUN SPORTS	PROTECTIVE CLOTHING - OUTDOOR WORK FORCE KUNUNURRA	39.90
EFT123671	7/05/2015	STAPLES AUSTRALIA PTY LIMITED	CLEANING SUPPLIES - EAST KIMBERLEY REGIONAL AIRPORT	1,599.04
EFT123672	7/05/2015	THE CANVAS SHED	REPAIRS TO SHADE SAIL- KNX AIRPORT	223.85
EFT123673	7/05/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - KNX TO PERTH - HEALTH SAMPLES	354.68
EFT123674	7/05/2015	TOLL EXPRESS	FREIGHT - LIBRARY SUPPLIES - WYNDHAM LIBRARY	81.73
EFT123675	7/05/2015	THINK WATER KUNUNURRA	RETICULATION SPRINKLERS AND FITTINGS - KUNUNURRA DEPOT	1,216.82
EFT123676	7/05/2015	TYREPLUS KUNUNURRA	BATTERIES AND PUNCTURE REPAIRS - P116, P384, P131, P388	1,750.00
EFT123677	7/05/2015	VANDERFIELD NORTHWEST PTY LTD	REPAIRS, PARTS AND OIL - P401, P138, P491, P357, P135, P497 & P333	1,488.33
EFT123678	7/05/2015	WESTERN AUST.TREASURY CORP.	LOAN REPAYMENTS	175,279.09
EFT123679	7/05/2015	WILD MANGO	CATERING - WORKING IN PARTNERSHIP MEETING - 23/04/2015	75.00
EFT123680	13/05/2015	4D LANDSCAPING SOLUTIONS	GARDEN MAINTENANCE - STAFF HOUSING PRIOR TO OCCUPATION	132.00
EFT123681	13/05/2015	ALS LIBRARY SERVICES PTY LTD	DVD & BOOK ORDER APRIL 15 - WYNDHAM LIBRARY	133.53
EFT123682	13/05/2015	AMPAC DEBT RECOVERY (WA) P/L	DEBT COLLECTION COMMISSIONS AND COSTS - APRIL 15	338.80
EFT123683	13/05/2015	ALLGEAR	PARTS - P356	176.50
EFT123684	13/05/2015	AUSTRALIAN TAXATION OFFICE	PAYROLL DEDUCTIONS	1,540.00
EFT123685	13/05/2015	BEING THERE SOLUTIONS PTY LTD	VIDEO CONFERENCING SUBSCRIPTION - MAY 15	715.00
EFT123686	13/05/2015	COATES HIRE OPERATIONS PTY LTD	PARTS - P356	169.99
EFT123687	13/05/2015	DELRON CLEANING PTY LTD	CONTRACT CLEANING - KNX ADMIN, KYC, KLC, CHANGE RMS, TOILETS - KUNUNURRA	15,232.30
EFT123688	13/05/2015	AUTO TOW & REPAIR	SERVICE - P131	447.16
EFT123689	13/05/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KNX ADMIN & WYN YOUTH CENTRE	158.55
EFT123690	13/05/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - BURST WATER SUPPLY PIPE - WYNDHAM SWIMMING POOL	643.78
EFT123691	13/05/2015	JORRITSMA H & CO	PLUMBING SUPPLIES -STAFF HOUSING	147.00
EFT123692	13/05/2015	KIMBERLEY COMMUNICATIONS	SUPPLY AND INSTALL UHF RADIOS AND ANTENNAS - P354 & P333	1,616.00
EFT123693	13/05/2015	KIMBERLEY KOOL REFRIG. & AIRC.	REPAIRS TO AIRCONDITIONER - WYNDHAM DEPOT CARETAKER'S RESIDENCE	830.50
EFT123694	13/05/2015	KUNUNURRA HOME & GARDEN	VARIOUS HARDWARE ITEMS - TED BIRCH MEMORIAL REC CENTRE WYNDHAM	27.10
EFT123695	13/05/2015	KUNUNURRA LOCK & KEY	KEY CUTTING - WYN YOUTH, REPLACE STRIKER ON SLIDING GLASS - EKR AIRPORT	269.50
EFT123696	13/05/2015	KUNUNURRA PANEL BEATING WKS	TOWING ABANDONED VEHICLE FROM KNX AIRPORT TO KNX LANDFILL	110.00
EFT123697	13/05/2015	KUNUNURRA SECURITY SERVICE	SECURITY PATROL & ALARM MONITORING - VARIOUS INCL. KNX ADMIN, KLC, KYC	3,237.50
EFT123698	13/05/2015	MICHAEL PAGE INTERNATIONAL P/L	PROFESSIONAL RECRUITMENT SERVICES	11,242.60
EFT123699	13/05/2015	OUTBACK CLEANING	CLEANING - VACANT STAFF HOUSING PRIOR TO AUSTSWIM TRAINER'S OCCUPANCY	385.00

EFT123700	13/05/2015	OLLIE'S IRRIG. & PLUMB. SUPPLIES	RETICULATION FITTINGS KNX	1,117.60
EFT123701	13/05/2015	ORD FUEL SUPPLIES	FUEL COSTS - APRIL 15	3,119.03
EFT123702	13/05/2015	PAINT INDUSTRIES PTY LTD	RUNWAY MARKING PAINT - EAST KIMBERLEY REGIONAL AIRPORT	9,954.94
EFT123703	13/05/2015	QUICK CORPORATE AUSTRALIA	STATIONERY ORDER - APRIL 15 - KUNUNURRA ADMINISTRATION	780.98
EFT123704	13/05/2015	SJR CIVIL CONSULTING PTY LTD	CONSULTANCY - INTERSECTION DESIGN KNX, TRAFFIC CALMING DEVICES - KNX	3,509.00
EFT123705	13/05/2015	TOLL EXPRESS	FREIGHT- LIBRARY SUPPLIES - WYNDHAM LIBRARY	145.08
EFT123706	13/05/2015	THINK WATER KUNUNURRA	REPLACEMENT RETICULATION CONTROLLER - STAFF HOUSING	137.15
EFT123707	13/05/2015	TYREPLUS KUNUNURRA	TYRE REPLACEMENT AND REPAIRS - P132, P138, P387 & P122	4,385.00
EFT123708	13/05/2015	VANDERFIELD NORTHWEST PTY LTD	PARTS - P135, P138, P491, P127	1,827.50
EFT123709	13/05/2015	WA LIBRARY SUPPLIES	SUPPLIES - SHELVING PARTS - WYNDHAM LIBRARY	765.92
EFT123710	13/05/2015	WESTBOOKS	BOOK PURCHASES - KUNUNURRA LIBRARY	22.49
EFT123711	15/05/2015	SHIRE OF WYND. EAST KIMBERLEY	PAYROLL DEDUCTIONS	125.00
EFT123712	15/05/2015	ABCO PRODUCTS	CLEANING SUPPLIES - KUNUNURRA ADMIN AND DEPOT	1,289.85
EFT123713	15/05/2015	AMP SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	235.68
EFT123714	15/05/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	1,260.63
EFT123715	15/05/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	150.60
EFT123716	15/05/2015	AUSTRALIAN TAXATION OFFICE	PAYROLL DEDUCTIONS	66,565.00
EFT123717	15/05/2015	DAVEY TYRE & BATTERY SERVICE	PUCTURE REPAIRS AND REPLACEMENT BATTERY - P477 & P129	248.00
EFT123718	15/05/2015	JSW HOLDINGS PTY LTD	SUPPLY OF CONCRETE - MINOR REPAIRS - KUNUNURRA AIRPORT	352.00
EFT123719	15/05/2015	MAXXIA	PAYROLL DEDUCTIONS	5,464.71
EFT123720	15/05/2015	MELLEN EVENTS PTY LTD	2015 SPONSORSHIP - ORD VALLEY MUSTER	22,000.00
EFT123721	15/05/2015	WA LOCAL GOVT. SUPER PLAN	SUPERANNUATION CONTRIBUTIONS	23,157.27
EFT123722	21/05/2015	AMPAC DEBT RECOVERY (WA) P/L	DEBT RECOVERY- COLLECTION COMMISSIONS AND COSTS - APR 15	1,061.50
EFT123723	21/05/2015	AUSTRAL MERCANTILE	DEBT RECOVERY- COLLECTION COMMISSIONS AND COSTS - APR 15	1,850.21
EFT123724	21/05/2015	AUSTRALIAN FLAG MAKERS	3 X FLAGS FOR EAST KIMBERLEY REGIONAL AIRPORT, WYND ADMIN, KNX ADMIN	633.59
EFT123725	21/05/2015	BADGELINK	STAFF NAME BADGES	92.80
EFT123726	21/05/2015	BLACKWOODS ATKINS PTY LTD	4 X ROLLS MESH BARRICADE - WEABER PLAIN RD	157.61
EFT123727	21/05/2015	BOAB REFRIG. & AIRCONDITIONING	REPLACEMENT OF FAULTY CONDENSER COIL & SERVICE OF AIRCON - EKR AIRPORT	6,717.33
EFT123728	21/05/2015	C & S JOLLY ELECTRICS PTY LTD	REPAIRS - VARIOUS INCL. LIGHTING - NETBALL COURT, FANS - EKR AIRPORT	6,234.14
EFT123729	21/05/2015	CENTURION TRANSPORT	FREIGHT- CLEANING SUPPLIES - KUNUNURRA ADMIN & DEPOT	51.19
EFT123730		CANCELLED	CANCELLED	
EFT123731	21/05/2015	CARPET, VINYL & TILE CENTRE	SUPPLIES - SEAL SPRAY & ACETONE TO REMOVE GRAFFITI IN TOILETS - EKR AIRPORT	90.81
EFT123732	21/05/2015	CHEMICALS AUST. OPERATIONS P/L	STORAGE AND HANDLING OF CHLORINE - KUNUNURRA AND WYNDHAM POOLS	470.24
EFT123733	21/05/2015	CIVIC LEGAL	LEGAL FEES - DEVELOPMENT APPLICATION - LOT 530 RIVER FARM ROAD KUNUNURRA	2,318.80

EFT123734	21/05/2015	COATES HIRE OPERATIONS PTY LTD	GENERATOR HIRE - WYNDHAM CEMETERY	128.30
EFT123735	21/05/2015	CR GLEN MATTHEW TAYLOR	REIMBURSEMENT - TAXI FARE FOR TRAVEL IN BROOME FOR APPROVED TRAINING	19.81
EFT123736	21/05/2015	DIRECT DRILLING AUSTRALIA WIDE	CONSTRUCTION - 60 METRE PRODUCTION BORE - KUNUNURRA LANDFILL	32,165.43
EFT123737	21/05/2015	EK ENGINEERING	REPAIRS - P133	50.00
EFT123738	21/05/2015	ENVIRONMENTAL HEALTH AUST.	MEMBERSHIP - STAFF MEMBER AS PER EMPLOYMENT CONTRACT	53.33
EFT123739	21/05/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - WYNDHAM DEPOT, KUNUNURRA DEPOT	1,077.35
EFT123740	21/05/2015	EAST KIMBERLEY PLUMBING	REPAIR FIRE PUMP - EKR AIRPORT, SERVICE BATHROOM TAPS - KNX DEPOT	9,016.21
EFT123741	21/05/2015	GHD PTY LTD	T02 13/14 ENGINEERING SERVICES - EKRA RUNWAY WRKS APPROVAL APPLICATION	9,515.00
EFT123742	21/05/2015	GELGANYEM LTD	ECONOMIC DEVELOPMENT GRANT FOR THE BARRAMUNDI FESTIVAL	7,942.00
EFT123743	21/05/2015	GEMECOM	DESTINY LIBRARY MANAGER ANNUAL SUBSCRIPTION RENEWAL 22/04/15-22/04/16	1,295.00
EFT123744	21/05/2015	HYDRO KLEEN	MAINTENANCE - AIRCONDITIONERS - KUNUNURRA YOUTH CENTRE	220.00
EFT123745	21/05/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - CHLORINE PUMP - KLC, TOILETS - CELEBRITY TREE PARK	1,275.78
EFT123746		CANCELLED	CANCELLED	
EFT123747	21/05/2015	JSW HOLDINGS PTY LTD	RFQ 24 14 -15 DRAINAGE UPGRADE AT REAR OF SUBWAY - KUNUNURRA	31,670.10
EFT123748	21/05/2015	KIMBERLEY COMMUNICATIONS	REPAIRS - P119	96.80
EFT123749	21/05/2015	KIMBERLEY KOOL REFRIG. & AIRC.	REPAIRS TO AIRCONDITIONER - KNX AIRPORT	748.00
EFT123750	21/05/2015	KIMBERLEY TRAINING INSTITUTE	FIRST AID TRAINING - STAFF MEMBER- 4 & 5 MAY 2015	250.00
EFT123751	21/05/2015	KIMBERLEY TREE SERVICES PTY LTD	REMOVAL OF DEAD RAIN TREE - OLD ADMIN OFFICE - 115 COOLIBAH DRIVE KNX	750.00
EFT123752	21/05/2015	KUNUNURRA SMASH REPAIRS	REPAIRS - P119	395.00
EFT123753	21/05/2015	KUNUNURRA DIST. HIGH SCHOOL	SWEK CONTRIBUTION TO LIBRARY ELECTRICITY CHARGES - APRIL 15 – KNX LIBRARY	4,298.69
EFT123754	21/05/2015	KUNUNURRA HOME & GARDEN	FITTINGS AND HARDWARE ITEMS - P133, P480, KUNUNURRA DEPOT	95.55
EFT123755	21/05/2015	LANDGATE	VALUATION SCHEDULES - GROSS RENTAL VALUES - APRIL 15	62.35
EFT123756	21/05/2015	MCLEODS BARRISTERS & SOLICITORS	LEGAL ADVICE - VARIOUS INCL. GENERAL PROCEDURE CLAIM	2,267.33
EFT123757	21/05/2015	MERCURE INN BROOME	ACCOMMODATION & MEALS - 7/5/15 - 8/5/15 - STAFF MEMBERS -TRAINING	1,407.00
EFT123758	21/05/2015	METALAND KUNUNURRA	STICKY BACK - FORM WORK - FOOT PATH PROJECT- WEABER PLAIN RD	853.00
EFT123759	21/05/2015	NARELLE LEEANN BROOK	REFUND FOR 5X RETURNED TIP PASSES	250.00
EFT123760	21/05/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	350.00
EFT123761	21/05/2015	PLANNING INSTITUTE AUSTRALIA	MEMBERSHIP - STAFF MEMBER IN ACCORDANCE WITH EMPLOYMENT CONTRACT	164.87
EFT123762	21/05/2015	RED SUN SPORTS	RESTRING AND REGRIIP SQUASH RAQUETS - KUNUNURRA LEISURE CENTRE	220.00
EFT123763	21/05/2015	ROCKWELL OLIVIER (PERTH) PTY LTD	LEGAL ADVICE - VARIATION OF EWIN CENTRE LEASE	550.00
EFT123764	21/05/2015	SEARLES HOLDINGS T/A AUTO PRO	DEMINERALISED WATER & TERMINALS BLUE POLY - EAST KIMB. REGIONAL AIRPORT	59.99
EFT123765	21/05/2015	SHIRE OF CARNARVON	REIMBURSEMENT OF LONG SERVICE LEAVE AS PER CONTRACTUAL ENTITLEMENTS	2,861.53
EFT123766	21/05/2015	SHIRE OF BROOME	BUDGET & REPORTING WORKSHOP & RESOURCES 30-31 MAR15-STAFF MEMBERS	3,190.00
EFT123767	21/05/2015	SPINIFEX HOTEL	MEALS-STAFF MEMBERS - MOSQUITO MANAGEMENT TRAINING 05/05/2015	444.50

EFT123768	21/05/2015	ST JOHN AMBULANCE	HART START BATTERY , DEFIB PADS AND FIRST AID TRAINING- STAFF MEMBERS	1,264.00
EFT123769	21/05/2015	SUNNY SIGN COMPANY PTY LTD	SIGNAGE-VARIOUS SIGNS INCL.RD WRKS ON SIDE RD -IVANHOE CROSSING,MILLS RD	202.11
EFT123770	21/05/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - KNX-PATHWEST- HEALTH SAMPLES	770.69
EFT123771	21/05/2015	TOLL EXPRESS	FREIGHT-VARIOUS INCL. KNX -STATE LIBRARY- LIBRARY SUPPLIES WYN	807.63
EFT123772	21/05/2015	THINK WATER KUNUNURRA	RETICULATION SPRINKLERS AND FITTINGS - VARIOUS LOCATIONS - KUNUNURRA	929.22
EFT123773	21/05/2015	TOX FREE AUSTRALIA PTY LTD	SKIP BIN EMPTIES - KLC WYN FORESHORE, KNX DEPOT- APRIL 15	2,379.00
EFT123774	21/05/2015	TYREPLUS KUNUNURRA	BATTERY FOR SCISSOR HOIST -KLC & PUNCTURE REPAIRS - P121	275.00
EFT123775	21/05/2015	WA LOCAL GOVERNMENT ASSN	MARKET FORCE ADVERTISING FEB 15 - RECRUITMENT	44.00
EFT123776	28/05/2015	SHIRE OF WYND. EAST KIMBERLEY	PAYROLL DEDUCTIONS	125.00
EFT123777	28/05/2015	ALS LIBRARY SERVICES PTY LTD	BOOK ORDER - WYNDHAM PUBLIC LIBRARY	61.88
EFT123778	28/05/2015	AMP SUPERANNUATION SAVINGS	SUPERANNUATION CONTRIBUTIONS	235.68
EFT123779	28/05/2015	ATO CHILD SUPPORT AGENCY	PAYROLL DEDUCTIONS	1,260.63
EFT123780	28/05/2015	ALLGEAR	PARTS - P356	258.90
EFT123781	28/05/2015	AUSTRALIA POST	POSTAGE AND STATIONERY PURCHASES - APRIL 15	391.07
EFT123782	28/05/2015	AUSTRALIAN SERVICES UNION	PAYROLL DEDUCTIONS	150.60
EFT123783	28/05/2015	AUSTRALIAN TAXATION OFFICE	PAYROLL DEDUCTIONS	65,504.00
EFT123784	28/05/2015	BOC GASES AUSTRALIAN LIMITED	WELDING GASES AND BOTTLE RENTAL- APRIL 15	295.94
EFT123785	28/05/2015	BUSHCAMP SURPLUS STORE	UNIFORMS - OUTDOOR WORKFORCE - KUNUNURRA	145.65
EFT123786	28/05/2015	CENTURION TRANSPORT	FREIGHT -ALL ABOUT CANVAS -X1 BANNER IN A ROLL - KNX ADMIN	33.00
EFT123787	28/05/2015	CHEFMASTER AUSTRALIA	SUPPLIES - BIN LINERS - KNX DEPOT	910.90
EFT123788	28/05/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	230.01
EFT123789	28/05/2015	CHEMICALS AUST. OPERATIONS P/L	STORAGE AND HANDLING OF CHLORINE - KUNUNURRA AND WYNDHAM POOL	455.07
EFT123790	28/05/2015	COATES HIRE OPERATIONS PTY LTD	EQUIPMENT HIRE-GENERATOR&PLATE COMPACTOR VARIOUS LOCATNS INCL.KNX TIP	1,695.97
EFT123791	28/05/2015	DSC CONTRACTING	MONTHLY TESTING OF FIRE ALARMS -- KNX AIRPORT - MAY 15	132.00
EFT123792	28/05/2015	STAFF MEMBER	REIMBURSEMENT IN ACCORDANCE WITH EMPLOYMENT CONTRACT	666.35
EFT123793	28/05/2015	DAVEY TYRE & BATTERY SERVICE	WHEEL ALIGNMENT AND SUPPLY OF NEWBATTERY - P134 , P124	263.00
EFT123794	28/05/2015	AUTO TOW & REPAIR	SERVICE & TOWING VEHICLE FROM VICTORIA HWAY TO KNX DEPOT- P132 ,P136	499.96
EFT123795	28/05/2015	DRYSDALE RIVER STATION	MEALS & ACCOMMODATION - STAFF MEMBER- KALUMBURU RD MAINTENANCE 12/5/15	400.00
EFT123796	28/05/2015	EAST KIMBERLEY HARDWARE	VARIOUS HARDWARE ITEMS - KUNUNURRA ADMIN & HISTORICAL SOCIETY	135.20
EFT123797	28/05/2015	EAST KIMBERLEY PLUMBING	PLUMBING WORKS - WYNDHAM TOWN OVAL TOILETS, STAFF HOUSING	603.46
EFT123798	28/05/2015	FRANMOR CONSTRUCTIONS PTY LTD	REPLACEMENT BROKEN WINDOW - STAFF HOUSING	255.64
EFT123799	28/05/2015	GHD PTY LTD	CONSULT. - VAR. INCL. T01 13/14 KUNUNURRA BUSINESS CASE & STRUCTURE PLANS	19,967.20
EFT123800	28/05/2015	GUERINONI & SONS	RELOCATION OF STOCK MATERIALS - EKR AIRPORT, TRUCK HIRE KNX LANDFILL	3,745.50
EFT123801	28/05/2015	IBAC PLUMBING PTY LTD	PLUMBING WORKS - DISABLED TOILET - WHITEGUM PARK KUNUNURRA	1,149.56

EFT123802	28/05/2015	INSTITUTE OF PUBLIC WORKS	MEMBERSHIP STAFF MEMBER IN ACCORDANCE WITH EMPLOYMENT CONTRACT	275.00
EFT123803	28/05/2015	JSW HOLDINGS PTY LTD	SUPPLY OF KERB MIX & CONCRETE - VARIOUS LOCATIONS INCL.WEABER PLAIN RD KNX	5,330.60
EFT123804	28/05/2015	JAB INDUSTRIES	EXCAVATOR HIRE TO TURN GREEN WASTE PILE - KUNUNURRA LANDFILL	1,056.00
EFT123805	28/05/2015	KIMBERLEY INDUSTRIES EQUIP. HIRE	RIGGING AUDIT - TESTING AND TAGGING OF CHAINS - KUNUNURRA DEPOT	101.75
EFT123806	28/05/2015	KIMBERLEY HYDRAULICS	SERVICE LIGHT POLE LIFT TOWER CYLINDER - KUNUNURRA OVAL LIGHTS	996.66
EFT123807	28/05/2015	KIMBERLEY MARKETING	CLEANING SUPPLIES - EAST KIMBERLEY REGIONAL AIRPORT	100.05
EFT123808	28/05/2015	KIMBERLEY MOTORS	FUEL COSTS - APRIL 15	1,548.70
EFT123809	28/05/2015	KIMBERLEY TRAINING INSTITUTE	STAFF TRAINING - OCCUPATIONAL HEALTH AND SAFETY WORKSHOP 4/05/15-19/05/15	4,500.00
EFT123810	28/05/2015	KUNUNURRA COURIERS	DRINKING WATER SUPPLIES - KNX ADMIN	20.00
EFT123811	28/05/2015	KUNUNURRA DIESEL SERVICE	SERVICE - P309	2,191.10
EFT123812	28/05/2015	KUNUNURRA HOME & GARDEN	KEY CUTTING, GAS BOTTLE, RETIC FITTINGS - WYN YOUTH, KNX DEPOT, EKR AIRPORT	288.50
EFT123813	28/05/2015	KUNUNURRA LOCK & KEY	REPAIR/REPLACE LOCKS VARIOUS INCL. NETBALL COURTS, KLC, KUNUNURRA ADMIN	1,383.50
EFT123814	28/05/2015	KUNUNURRA MOBILE WELDING	REPAIRS - P127	220.00
EFT123815	28/05/2015	KUNUNURRA NETBALL ASSOCIATION	ANNUAL COMMUNITY GRANT	5,900.00
EFT123816	28/05/2015	KUNUNURRA PANEL BEATING WKS	REPAIRS - P387	561.00
EFT123817	28/05/2015	KUNUNURRA PEST MANAGEMENT	PEST CONTROL TREATMENT - KUNUNURRA LEISURE CENTRE, STAFF HOUSING	400.00
EFT123818	28/05/2015	KUNUNURRA SECURITY SERVICE	SECURITY MONITORING AND PATROL - KUNUNURRA ADMIN BUILDING	160.00
EFT123819	28/05/2015	LAWRENCE & HANSON GROUP	SUPPLY OF LAMPS - KUNUNURRA DEPOT, KUNUNURRA LEISURE CENTRE	991.97
EFT123820	28/05/2015	LANDGATE	VALUATION SCHEDULES AND LAND ENQUIRIES - APRIL 15	346.40
EFT123821	28/05/2015	MAXXIA	PAYROLL DEDUCTIONS	5,961.46
EFT123822	28/05/2015	METALAND KUNUNURRA	FABRICATE LOCKING PIN FOR GYM EQUIPMENT - KUNUNURRA LEISURE CENTRE	389.57
EFT123823	28/05/2015	MICHAEL PAGE INTERNATIONAL P/L	PROFESSIONAL RECRUITMENT SERVICES	3,720.67
EFT123824	28/05/2015	OPTEON (NORTH WEST WA) PTY LTD	VALUATION - 6 EUGENIA STREET KNX, 67 KOOJARA STREET WYNDHAM	1,760.00
EFT123825	28/05/2015	ORDCO	PEST CONTROL CHEMICALS - KUNUNURRA DEPOT	1,221.00
EFT123826	28/05/2015	OLLIE'S IRRIG. & PLUMBING SUPPLIES	RETICULATION FITTINGS – VAR. LOCS. INCL. KUNUNURRA DEPOT, STAFF HOUSING	1,216.63
EFT123827	28/05/2015	ORD FUEL SUPPLIES	FUEL COSTS - MAY 15	9,743.97
EFT123828	28/05/2015	ORD MACHINING	PARTS - P386, P385	279.84
EFT123829		CANCELLED	CANCELLED	
EFT123830	28/05/2015	PIVOTEL	SATELITE PHONE COSTS -MAY 15	87.28
EFT123831	28/05/2015	ROYAL LIFE SAVING (WA BRANCH)	ENROLMENT FEES - POOL LIFE GUARD TRAINING 21/06/2015 - STAFF MEMBER	130.00
EFT123832	28/05/2015	SEARLES HOLDINGS T/A AUTO PRO	PARTS - P480, P368	72.98
EFT123833	28/05/2015	SHELF SUPPLY	PROTECTIVE CLOTHING - STAFF MEMBER - KUNUNURRA AIRPORT	120.00
EFT123834	28/05/2015	TELFORD INDUSTRIES	CHLORINE TESTING TABLETS - KUNUNURRA POOL	465.19
EFT123835	28/05/2015	TNT AUSTRALIA PTY LIMITED	FREIGHT - KUNUNURRA TO PERTH - HEATH SAMPLES	313.87

EFT123836	28/05/2015	TOLL EXPRESS	FREIGHT - PERTH TO KUNUNURRA - SIGNAGE	386.79
EFT123837	28/05/2015	WEST AUSTRALIAN NEWSPAPERS LTD	ADVERTISING - RECRUITMENT, SWEK NEWS - APRIL 15	2,157.60
EFT123838	28/05/2015	THINK WATER KUNUNURRA	SPRINKLERS FOR RETICULATION - VARIOUS LOCATIONS - KUNUNURRA	81.13
EFT123839	28/05/2015	THORLEY'S STORE - WYNDHAM	KEY CUTTING - TED BIRCH MEMORIAL RECREATION CENTRE WYNDHAM	40.00
EFT123840	28/05/2015	TROPICAL PEST CONTROL	TERMITE INSPECTION & TREATMENT - KUNUNURRA DEPOT	110.00
EFT123841	28/05/2015	TYREPLUS KUNUNURRA	PUNCTURE REPAIRS - P379	35.00
EFT123842	28/05/2015	VANDERFIELD NORTHWEST PTY LTD	SERVICE - P134	821.04
EFT123843	28/05/2015	WA LOCAL GOVERNMENT SUPER	SUPERANNUATION CONTRIBUTIONS	23,224.73
EFT123844	28/05/2015	WESTERN AUST. TREASURY CORP.	LOAN REPAYMENTS	152,262.58
EFT123845	28/05/2015	ZURICH AUSTRALIAN INSURANCE	INSURANCE EXCESS PAYMENT	300.00
TOTAL MUNICIPAL EFT PAYMENTS				939,816.89

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
50860	7/05/2015	AUST. COMMS. & MEDIA AUTH.	LICENSE RENEWAL TELEVISION AND RADIO SERVICES	325.00
50861	7/05/2015	CASH - PETTY CASH KNX OFFICE	FUEL - P116	195.55
50862	CANCELLED		CANCELLED	
50863	7/05/2015	HESPERIAN PRESS	BOOKS AND FREIGHT - WYNDHAM LIBRARY	208.45
50864	7/05/2015	HORIZON POWER	ELEC.- VAR. INCL. KLC, EKRA TERMINAL, MESSMATE WY PUMP- 11/03/15-7/04/15	57,984.67
50865	CANCELLED		CANCELLED	
50866	7/05/2015	TELSTRA	EXECUTIVE LANDLINES - MAR 15	341.74
50867	7/05/2015	TELSTRA NETWORK & SERVICES	RFQ 24 2014/15 DRAINAGE UPGRADE REAR OF SUBWAY-RELOC. OF TELSTRA ASSETS	5,849.66
50868	8/05/2015	R.B DESSERT	REFUND - 1 MONTH GOLD MEMBERSHIP - KUNUNURRA LEISURE CENTRE	116.00
50869	13/05/2015	JACKSON MCDONALD	LEGAL ADVICE - PLANNING - HOME BASED BUSINESS	902.00
50870	13/05/2015	MLC MASTERKEY PERSONAL SUPER	SUPERANNUATION CONTRIBUTIONS	205.27
50871	13/05/2015	TELSTRA	MOBILE PHONE CHARGES - APRIL 15	2,678.63
50872	14/05/2015	AMP LIFE LTD	SUPERANNUATION CONTRIBUTIONS	415.02
50873	14/05/2015	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	3,052.70
50874	14/05/2015	BT LIFETIME SUPER	SUPERANNUATION CONTRIBUTIONS	423.42
50875	14/05/2015	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	249.47
50876	14/05/2015	CBUS	SUPERANNUATION CONTRIBUTIONS	374.46
50877	14/05/2015	COMMONWEALTH ESSENTIAL SUPER	SUPERANNUATION CONTRIBUTIONS	368.14
50878	14/05/2015	COMMONWEALTH BANK SUPER	SUPERANNUATION CONTRIBUTIONS	591.95
50879	14/05/2015	COMMONWEALTH BANK SUPER	SUPERANNUATION CONTRIBUTIONS	253.46
50880	14/05/2015	DEPARTMENT OF TRANSPORT	P479 - REGISTRATION	51.40

50881	14/05/2015	HEALTH INSURANCE FUND OF AUST	PAYROLL DEDUCTIONS	42.75
50882	14/05/2015	HOSTPLUS SUPERANNUATION FUND	SUPERANNUATION CONTRIBUTIONS	836.05
50883	14/05/2015	INTRUST SUPER	SUPERANNUATION CONTRIBUTIONS	249.47
50884	14/05/2015	KEN DAWE	REIMBURSEMENT - DAMAGES TO RESIDENT'S VEHICLE	232.82
50885	14/05/2015	LOCAL GOVERNMENT SUPER	SUPERANNUATION CONTRIBUTIONS	1,313.58
50886	14/05/2015	MLC MASTERKEY PERSONAL SUPER	SUPERANNUATION CONTRIBUTIONS	244.92
50887	14/05/2015	NORTH PERSONAL SUPER PLAN	SUPERANNUATION CONTRIBUTIONS	273.59
50888	14/05/2015	REI SUPER	SUPERANNUATION CONTRIBUTIONS	425.79
50889	14/05/2015	REST SUPER	SUPERANNUATION CONTRIBUTIONS	1,443.30
50890	14/05/2015	SUNSUPER	SUPERANNUATION CONTRIBUTIONS	155.82
50891	14/05/2015	TRUSTEE FOR HEADING SUPER FUND	SUPERANNUATION CONTRIBUTIONS	589.11
50892	14/05/2015	UNISUPER	SUPERANNUATION CONTRIBUTIONS	187.75
50893	14/05/2015	VICSUPER	SUPERANNUATION CONTRIBUTIONS	249.47
50894	14/05/2015	VISION SUPER	SUPERANNUATION CONTRIBUTIONS	473.38
50895	14/05/2015	WATER CORP. SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	212.39
50896	21/05/2015	HORIZON POWER	ELEC. VAR. INCL. STREET LIGHTING 01/04/2015 -30/04/2015	19,461.58
50897	21/05/2015	TELSTRA	LANDLINE COST - APRIL 15	6,350.71
50898	21/05/2015	WATER CORPORATION	WATER USE VAR. LOCS. INCL. KLC, STAFF HOUSING, KNX ADMIN - 05/03/15-05/05/15	5,236.32
50899-50903		CANCELLED	CANCELLED	
50904	28/05/2015	AMP LIFE LTD	SUPERANNUATION CONTRIBUTIONS	481.46
50905	28/05/2015	AUST. COMMS. & MEDIA AUTH.	APPARATUS LICENCE RENEWAL FEES - TELEVISION AND RADIO SERVICES	43.00
50906	28/05/2015	AUSTRALIAN SUPER	SUPERANNUATION CONTRIBUTIONS	3,035.63
50907	28/05/2015	BROOME PUBLIC LIBRARY	REPLACE DAMAGED BOOK - KUNUNURRA LIBRARY	26.90
50908	28/05/2015	BT LIFETIME SUPER	SUPERANNUATION CONTRIBUTIONS	423.42
50909	28/05/2015	BT SUPER FOR LIFE	SUPERANNUATION CONTRIBUTIONS	249.47
50910	28/05/2015	CASH - PETTY CASH KNX DEPOT	PETTY CASH REIMBURSEMENT - KUNUNURRA DEPOT	79.16
50911	28/05/2015	CBUS	SUPERANNUATION CONTRIBUTIONS	373.23
50912	28/05/2015	COMMONWEALTH ESSENTIAL SUPER	SUPERANNUATION CONTRIBUTIONS	366.84
50913	28/05/2015	COMMONWEALTH BANK SUPER	SUPERANNUATION CONTRIBUTIONS	471.39
50914	28/05/2015	COMMONWEALTH BANK SUPER	SUPERANNUATION CONTRIBUTIONS	253.46
50915	28/05/2015	HEALTH INSURANCE FUND OF AUST	PAYROLL DEDUCTIONS	42.75
50916	28/05/2015	HORIZON POWER	ELEC. VAR. INCL. - KLC, EKRA TERMINAL, KYC, AG OVAL LIGHTS 13/3/15-11/05/15	47,249.93
50917	28/05/2015	HOSTPLUS SUPERANNUATION FUND	SUPERANNUATION CONTRIBUTIONS	806.33
50918	28/05/2015	INTRUST SUPER	SUPERANNUATION CONTRIBUTIONS	249.47

50919	28/05/2015	LOCAL GOVERNMENT SUPER	SUPERANNUATION CONTRIBUTIONS	1,243.16
50920	28/05/2015	MLC MASTERKEY PERSONAL SUPER	SUPERANNUATION CONTRIBUTIONS	244.21
50921	28/05/2015	NORTH PERSONAL SUPER PLAN	SUPERANNUATION CONTRIBUTIONS	305.00
50922	28/05/2015	REI SUPER	SUPERANNUATION CONTRIBUTIONS	425.79
50923	28/05/2015	REST SUPER	SUPERANNUATION CONTRIBUTIONS	1,376.65
50924	28/05/2015	SHELLEY COOPER	PARTIAL REFUND OF SWIM SCHOOL FEES - KUNUNURRA LEISURE CENTRE	22.50
50925	28/05/2015	SUNSUPER	SUPERANNUATION CONTRIBUTIONS	130.56
50926	28/05/2015	COMMBANK SUPER SAVINGS ACCT	PAYROLL DEDUCTIONS	17.58
50927	28/05/2015	TRUSTEE FOR HEADING SUPER FUND	SUPERANNUATION CONTRIBUTIONS	584.11
50928	28/05/2015	UNISUPER	SUPERANNUATION CONTRIBUTIONS	187.75
50929	28/05/2015	VICSUPER	SUPERANNUATION CONTRIBUTIONS	249.47
50930	28/05/2015	VISION SUPER	SUPERANNUATION CONTRIBUTIONS	473.38
50931	28/05/2015	WATER CORPORATION	WATER RATES - VAR. INCL. KNX OVAL CHANGE RMS, EKRA DEPOT 12/03/15-12/05/15	1,273.89
50932	28/05/2015	WATER CORP. SUPERANNUATION	SUPERANNUATION CONTRIBUTIONS	212.39
50933	28/05/2015	AMP LIFE LTD	SUPERANNUATION CONTRIBUTIONS	130.56
TOTAL MUNICIPAL CHEQUE PAYMENTS				173,595.23

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
752	7/05/2015	TONY FITZGERALD	BOND REFUND PARK HIRE 1/5/15	500.00
753	19/05/2015	KAI AND DEBRA HALFORD	REFUND BALANCE OF BOND - PRIVATE WORKS - WAPC REF:142188	1,151.15
754	21/05/2015	BEN MARR	KERB BOND REFUND - BP 078/2014	552.00
755	21/05/2015	DARREN BRUCE FULCHER	KERB BOND REFUND - BP 131/2013	520.00
756	21/05/2015	SHIRE OF WYND. EAST KIMBERLEY	TRANSFER BOND TO PRIVATE WORKS INCOME - WAPC REF:142188	64,848.85
TOTAL TRUST CHEQUE PAYMENTS				67,572.00

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
500935	29/04/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 29/04/2015	372.00
500936	30/04/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 30/04/2015	1,109.20
500937	1/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 01/05/2015	165.30
500938	4/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 04/05/2015	1,034.05
500939	5/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 05/05/2015	76.10
500940	6/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 06/05/2015	1,076.75
500941	7/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 07/05/2015	1,164.90

500942	8/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 08/05/2015	1,490.40
500943	12/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 12/05/2015	52.00
500944	13/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 13/05/2015	2,977.95
500945	14/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 14/05/2015	1,519.30
500946	15/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 15/05/2015	100.50
500947	18/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 18/05/2015	710.00
500948	19/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 19/05/2015	396.70
500949	20/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 20/05/2015	545.50
500950	21/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 21/05/2015	309.10
500951	22/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 22/05/2015	1,383.95
500952	25/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 25/05/2015	894.00
500953	26/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 26/05/2015	844.35
500954	28/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 28/05/2015	805.75
500955	29/05/2015	TRUST DPI CLEARING	TRANSPORT CLEARING 29/05/2015	263.80
TOTAL DIRECT DEBIT TRANSPORT PAYMENTS				17,291.60

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	12/05/2015	PAYROLL	PAYROLL	1,959.73
	12/05/2015	PAYROLL	PAYROLL	2,361.80
	13/05/2015	PAYROLL	PAYROLL	202,028.18
	27/05/2015	PAYROLL	PAYROLL	199,134.18
TOTAL PAYROLL PAYMENTS				405,483.89

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	1/05/2015	DIRECT DEBIT	BANK FEES	165.70
	1/05/2015	DIRECT DEBIT	EFTPOS FEES	1,075.69
	20/05/2015	DIRECT DEBIT	PERIODICAL PAYMENT TO MASTERCARD	3,212.37
	27/05/2015	DIRECT DEBIT	DEPOSIT BOOK	4.50
TOTAL DIRECT DEBIT PAYMENTS				4,458.26

***DETAILS OF MASTERCARD TRANSACTIONS INCLUDED IN DIRECT DEBIT 19/5/15**

CHQ/EFT	DATE	NAME	DESCRIPTION	AMOUNT
	3/04/2015	VIRGIN AUSTRALIA	FLIGHTS-KNX-PER-1/5/15,17/5/15 STAFF MEMBER IN ACCORDANCE WITH CONTRACT	1,005.70

3/04/2015	MERCURE BROOME	ACCOMM. 29/03/15-3/04/15, ELECTED MEMBER-ATTEND TRAINING IN BROOME	743.99
10/04/2015	ANDATECH CORPORATION	CALIBRATION FOR ALCOHOL BREATHALYSER UNIT	120.00
10/04/2015	DROP BOX	UPGRADE OF WYNDHAM COMMUNITY RESOURCE CENTRE CLOUD STORAGE	109.00
13/04/2015	COLES KUNUNURRA	REFRESHMENTS - COUNCILLOR'S BREAKFAST MEETING 13/4/2015	53.82
14/04/2015	MESSAGE MEDIA	SERVER SMS ALERT NOTIFICATION SERVICE	5.08
15/04/2015	AIRNOTH	FLIGHTS - KNX-BME-KNX 7/5/15, 8/05/15 - STAFF MEMBER - ATTEND TRAINING	482.78
22/04/2015	TARGET COUNTRY	LINEN FOR STAFF HOUSING TO ACCOMMODATE AUSTSWIM TRAINER	448.00
22/04/2015	DODY GROUP	REPLACEMENT IPHONE BATTERY	17.10
23/04/2015	SUBWAY KUNUNURRA	CATERING - SPECIAL COUNCIL MEETING & BUDGET BRIEFING 23 APRIL	92.00
27/04/2015	ADWARE FLAGS AND FLAGPOLES	FLAGPOLE ROPE KITS X2 - EAST KIMBERLEY REGIONAL AIRPORT	134.90

13.1.3 Elected Member Allowances

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Natalie Octoman, Director Corporate Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.05.11
DECLARATION OF INTERESTS:	Nil

PURPOSE

For the Council to reconsider the adoption of the 2015/16 Elected Member fees and allowances effective from 1 July 2015 to be incorporated into the 2015/16 Annual Budget.

BACKGROUND

Elected Member allowances were discussed with members at the 14 April briefing session and presented to the Council at its Ordinary Meeting on 28 April 2015.

The Council decisions surrounding this matter were as follows:

COUNCIL DECISION

Minute No. 10895

That Council:

- 1. Pursuant to section 5.99 of the Local Government Act 1995 and regulation 34 of the Local Government (Administration) Regulations 1996, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:***

- d. President \$15,683***
- e. Councillors \$15,683***

- 2. Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33 of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:***

- a. President \$31,200***

- 3. Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33A of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:***

- b. Deputy President \$7,800***

Lost 4/4

COUNCIL DECISION
Minute No. 10896

That Council:

1. ***Pursuant to section 5.99 of the Local Government Act 1995 and regulation 34 of the Local Government (Administration) Regulations 1996, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:***

- a. ***President \$14500***
- b. ***Councillors \$15080***

2. ***Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33 of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:***

- a. ***President \$30000***

3. ***Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33A of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:***

- a. ***Deputy President \$7500***

Lost 4/4

As both of the motions considered were lost, there is effectively no decision of Council in relation to the elected member fees and allowances for 2015/16.

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 5

Division 6 – Disclosure of financial interests

5.63. Some interests need not be disclosed

- (1) ***Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —***
 - (a) ***an interest common to a significant number of electors or ratepayers; or***
 - (b) ***an interest in the imposition of any rate, charge or fee by the local government; or***
 - (c) ***an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers...***

Local Government Act 1995, Division 8 – Local government payments and gifts to members

5.98. Fees etc. for council members

- (1A) ***In this section —***

determined means determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B.

- (1) *A council member who attends a council or committee meeting is entitled to be paid —*
 - (a) *the fee determined for attending a council or committee meeting; or*
 - (b) *where the local government has set a fee within the range determined for council or committee meeting attendance fees, that fee.*

- (2A) *A council member who attends a meeting of a prescribed type at the request of the council is entitled to be paid —*
 - (a) *the fee determined for attending a meeting of that type; or*
 - (b) *where the local government has set a fee within the range determined for meetings of that type, that fee.*

- (2) *A council member who incurs an expense of a kind prescribed as being an expense —*
 - (a) *to be reimbursed by all local governments; or*
 - (b) *which may be approved by any local government for reimbursement by the local government and which has been approved by the local government for reimbursement,*

is entitled to be reimbursed for the expense in accordance with subsection (3).

- (3) *A council member to whom subsection (2) applies is to be reimbursed for the expense —*
 - (a) *where the extent of reimbursement for the expense has been determined, to that extent; or*
 - (b) *where the local government has set the extent to which the expense can be reimbursed and that extent is within the range determined for reimbursement, to that extent.*

- (4) *If an expense is of a kind that may be approved by a local government for reimbursement, then the local government may approve reimbursement of the expense either generally or in a particular case but nothing in this subsection limits the application of subsection (3) where the local government has approved reimbursement of the expense in a particular case.*

- (5) *The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —*
 - (a) *the annual local government allowance determined for mayors or presidents; or*
 - (b) *where the local government has set an annual local government allowance within the range determined for annual local government allowances for mayors or presidents, that allowance.*

- (6) *A local government cannot —*
 - (a) *make any payment to; or*
 - (b) *reimburse an expense of,*

a person who is a council member or a mayor or president in that person's capacity as council member, mayor or president unless the payment or reimbursement is in accordance with this Division.

- (7) A reference in this section to a **committee meeting** is a reference to a meeting of a committee comprising —
- (a) council members only; or
 - (b) council members and employees.

[Section 5.98 amended by No. 64 of 1998 s. 36; No. 17 of 2009 s. 33; No. 2 of 2012 s. 14.]

5.98A. Allowance for deputy mayor or deputy president

- (1) A local government may decide* to pay the deputy mayor or deputy president of the local government an allowance of up to the percentage that is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).

* Absolute majority required.

- (2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

[Section 5.98A inserted by No. 64 of 1998 s. 37; amended by No. 2 of 2012 s. 15.]

5.99. Annual fee for council members in lieu of fees for attending meetings

A local government may decide* that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —

- (a) the annual fee determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B; or
- (b) where the local government has set a fee within the range for annual fees determined by that Tribunal under that section, that fee.

* Absolute majority required.

[Section 5.99 amended by No. 2 of 2012 s. 16.]

5.99A. Allowances for council members in lieu of reimbursement of expenses

A local government may decide* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members —

- (a) the annual allowance determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for that type of expense; or
- (b) where the local government has set an allowance within the range determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for annual allowances for that type of expense, an allowance of that amount,

and only reimburse the member for expenses of that type in excess of the amount of the allowance.

* Absolute majority required.

[Section 5.99A inserted by No. 64 of 1998 s. 38; amended by No. 2 of 2012 s. 17.]

Local Government (Administration) Regulations 1996
Part 8 – Local government payments and gifts to members

30. Meeting attendance fees (Act s. 5.98(1) and (2A))

[(1), (2) deleted]

(3A) Each of the following meetings is a meeting of a prescribed type for the purposes of section 5.98(2A) —

- (a) meeting of a WALGA Zone, where the council member is representing a local government as a delegate elected or appointed by the local government;
- (b) meeting of a Regional Road Group established by Main Roads Western Australia, where the council member is representing a local government as a delegate elected or appointed by the local government;
- (c) council meeting of a regional local government where the council member is the deputy of a member of the regional local government and is attending in the place of the member of the regional local government;
- (d) meeting other than a council or committee meeting where the council member is attending at the request of a Minister of the Crown who is attending the meeting;
- (e) meeting other than a council meeting or committee meeting where the council member is representing a local government as a delegate elected or appointed by the local government.

[(3B) deleted]

(3C) A council member is not entitled to be paid a fee for attending a meeting of a type referred to in subregulation (3A) if —

- (a) the person who organises the meeting pays the council member a fee for attending the meeting; or
- (b) the council member is paid an annual fee in accordance with section 5.99; or
- (c) if the meeting is a meeting referred to in subregulation (3A)(c), the member of the regional local government is paid an annual fee in accordance with section 5.99.

[(3)-(5) deleted]

[Regulation 30 amended in Gazette 23 Apr 1999 p. 1719; 31 Mar 2005 p. 1034; 3 May 2011 p. 1595-6; 13 Jul 2012 p. 3219.]

31. Expenses to be reimbursed (Act s. 5.98(2)(a) and (3))

(1) For the purposes of section 5.98(2)(a), the kinds of expenses that are to be reimbursed by all local governments are —

- (a) rental charges incurred by a council member in relation to one telephone and one facsimile machine; and
- (b) child care and travel costs incurred by a council member because of the member's attendance at a council meeting or a meeting of a committee of which he or she is also a member.

[(2)-(5) deleted]

[Regulation 31 amended in Gazette 31 Mar 2005 p. 1034; 13 Jul 2012 p. 3219.]

32. Expenses that may be approved for reimbursement (Act s. 5.98(2)(b) and (3))

- (1) For the purposes of section 5.98(2)(b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are —
- (a) an expense incurred by a council member in performing a function under the express authority of the local government; and
 - (b) an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and
 - (c) an expense incurred by a council member in performing a function in his or her capacity as a council member.

[(2) deleted]

[Regulation 32 amended in Gazette 13 Jul 2012 p. 3219.]

[33-34AB. Deleted in Gazette 13 Jul 2012 p. 3219]

POLICY IMPLICATIONS

There are no policy implications in the consideration of elected member fees and allowances.

FINANCIAL IMPLICATIONS

The adoption of the 2015/16 Elected Member fees and allowances will not have any financial implications on the current 2014/15 Budget.

There will be an increase in individual Elected Member fees and allowances reflected in the 2015/16 Annual Budget of the following:

Description	2014/15		2015/16		Variation
	Individual Members	All Members	Individual Members	All Members	Shire Impact
Annual Attendance Fees for a Council Member other than the President	\$15,080	\$120,640	\$15,683	\$125,464	\$4,824
Annual Attendance Fee for a Council Member who holds the office of President	\$14,500	\$14,500	\$15,683	\$15,683	\$1,183
Annual Allowance for a President	\$30,000	\$30,000	\$31,200	\$31,200	\$1,200
Annual Allowance for a Deputy President (25%)	\$7,500	\$7,500	\$7,800	\$7,800	\$300
TOTAL		\$172,640		\$180,147	\$7,507

The increase in the annual attendance fees for a Council Member other than the President reflects a 4% increase, which is consistent with the staff Enterprise Agreement, which has been used as a guide. In order to ensure equity across all Council Members, the annual

attendance fee for the President has been increased to be the same as that for a Council Member. From an overall budget perspective, the increase in 2015/16 will be \$7,507.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.3: Maintain Council's long term financial viability

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement has occurred to date with the following parties:

- Shire officers
- Elected Members during a Budget Forum after the 24th March Ordinary Council Meeting, and again at the 14th April Budget Forum
- Ordinary Meeting of Council on 28 April 2015

COMMENT

During the Budget Forum held with elected members, allowances were discussed. The allowances recommended to be provided to elected members for annual attendance fees are only slightly higher than the minimum amount allowable in accordance with the June 2014 determination of the Salaries and Allowances Tribunal on Local Government Elected Council Members pursuant to section 7(B) of the *State Administrative Tribunal Act 1975*.

The 2015 determination of the Salaries and Allowances Tribunal was released on 17 June, and the minimum amounts allowable has not been modified, however the maximum for annual attendance fees in lieu of council meetings, committee meetings and prescribed meeting attendance fees has increased by 3%.

The June 2015 determination retains the Shire of Wyndham East Kimberley as a band 2 local government and elected members have considered the allowances in accordance with the banding level recommendations which have not changed from 2014.

Contained within the June 2015 determination were statistics based upon other local governments who responded to the Tribunal's questionnaire. Some interesting ones to note include, of the local governments that responded (about 86%):

- All band 2 respondents now reported that their elected council members claimed an annual attendance fee in lieu of council and committee meeting fees;

- Only 3 local governments do not provide an annual allowance for their Mayors, Presidents or Chairpersons.

In order to demonstrate fairness and equity to the staff employed within the organisation, it is proposed that the current annual attendance fees increase for each council member who is not the President, by 4%. This would result in the current attendance fees increasing from \$15,080 to \$15,683 which is still well below the allowable maximum of \$22,660 (which was increased by 3% from the 2014/15 to the 2015/16 determination).

The annual allowance for a President shall not exceed the maximum amount of \$61,800 or 0.2 percent of the operating revenue for 2013/14, whichever is the lesser. While it was envisaged that the June 2015 determination from the Salaries and Allowances Tribunal was likely to refer to operating revenue based on 2014/15, this has not occurred and still references 2013/14.

The maximum allowance amounts have therefore modified slightly. Irrespective, the recommended annual allowance for the President is proposed to increase from \$30,000 to \$31,200 which is still significantly less than the \$55,909 that would be allowable based on the 2013/14 operating revenue.

This will have a flow on effect to the Deputy President's annual allowance as this is set at 25% of the President's allowance, therefore increasing from \$7,500 to \$7,800 (again, below the \$13,977 allowable based on the 2013/14 operating revenue).

Officers have previously outlined the advantages and disadvantages of moving away from annual attendance fees in lieu of Council Meeting and Committee Meeting Attendance Fees as allowed within the determination. The annual attendance fees are less administratively time consuming and do not recognise the amount of time and effort that Elected Members spend on Council business outside of these meeting times. The officer is therefore not recommending that the current arrangements be modified.

The Council have several options when considering this item:

1. Make no change to the current 2014/15 elected member fees and allowances; or
2. Adopt the officer's recommendations based upon the previous discussions had with Elected Members; or
3. Adopt a different scale of member fees and allowances, providing they meet the requirements of the SAT determination.

In summary, Council is requested to reconsider the adoption of the 2015/16 Elected Member fees and allowances proposed so they can be incorporated into the 2015/16 Budget.

ATTACHMENTS

Nil

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION 3

That Council:

1. Pursuant to section 5.99 of the *Local Government Act 1995* and regulation 34 of the *Local Government (Administration) Regulations 1996*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:

a. President	\$15,683
b. Councillors	\$15,683

2. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33 of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

a. President	\$31,200
--------------	----------

3. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33A of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

a. Deputy President	\$7,800
---------------------	---------

MOTION

Cr B Robinson moves:

That Council:

1. Pursuant to section 5.99 of the *Local Government Act 1995* and regulation 34 of the *Local Government (Administration) Regulations 1996*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:

a. President	\$15,546
b. Councillors	\$15,546

2. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33 of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

a. President	\$35,000
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3. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33A of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:

a. Deputy President	\$8,750
---------------------	---------

MOTION

Cr K Wright moves to adjourn the meeting to seek clarification on who can speak in the order of debate.

COUNCIL DECISION

Minute No.10973

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council adjourn the meeting to seek clarification on who can speak in the order of debate.

Lost 3/6

For: Cr K Wright, Cr D Spackman, Cr G King

**Against: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke
Cr G Taylor**

The motion from Cr B Robinson is considered:

COUNCIL DECISION

Minute No.10974

Moved: Cr B Robinson

Seconded: Cr S Cooke

That Council:

- 1. Pursuant to section 5.99 of the Local Government Act 1995 and regulation 34 of the Local Government (Administration) Regulations 1996, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:**

- | | |
|-----------------------|-----------------|
| a. President | \$15,546 |
| b. Councillors | \$15,546 |

- 2. Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33 of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:**

- | | |
|---------------------|-----------------|
| a. President | \$35,000 |
|---------------------|-----------------|

- 3. Pursuant to section 5.98(5) of the Local Government Act 1995 and regulation 33A of the Local Government (Administration) Regulations 1996, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:**

- | | |
|----------------------------|----------------|
| a. Deputy President | \$8,750 |
|----------------------------|----------------|

Lost 4/5

For: Cr B Robinson, Cr S Cooke, Cr R Dessert, Cr D Learbuch

Against: Cr J Moulden, Cr K Wright, Cr D Spackman, Cr G King, Cr G Taylor

MOTION

Cr K Wright moves that Council maintains the remuneration to Elected Members as per the previous year.

COUNCIL DECISION

Minute No.10975

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council maintains the remuneration to Elected Members as per the previous year.

Lost 3/6

For: Cr K Wright, Cr D Spackman, Cr G King

**Against: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke
Cr G Taylor**

MOTION

Cr R Dessert moves the Officer's Recommendation.

COUNCIL DECISION

Minute No.10976

Moved: Cr R Dessert

Seconded: Cr B Robinson

That Council:

- 1. Pursuant to section 5.99 of the *Local Government Act 1995* and regulation 34 of the *Local Government (Administration) Regulations 1996*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:**

b. President	\$15,683
c. Councillors	\$15,683

- 2. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33 of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:**

a. President	\$31,200
---------------------	-----------------

- 3. Pursuant to section 5.98(5) of the *Local Government Act 1995* and regulation 33A of the *Local Government (Administration) Regulations 1996*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:**

a. Deputy President	\$7,800
----------------------------	----------------

Carried 5/4

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke

Against: Cr G Taylor, Cr K Wright, Cr G King, Cr D Spackman

Cr G Taylor declares an impartiality interest (probably complaints against me) in this item.

13.1.4 Customer Services and Complaint Management Policies

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Kununurra
AUTHOR:	Danielle King, Team Leader Records Management and Customer Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	N/a
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

For Council to adopt the Customer Service Policy and a Complaints Management Policy upon considering the public submission.

BACKGROUND

At the 16 December 2014 Ordinary Council Meeting an item was presented to Council regarding statistical records of information requests received for calendar year 2013 versus 2014. At that meeting Council resolved the following:

COUNCIL DECISION

Minute No. 10741

That the Acting Chief Executive Officer develop the following for Council consideration in 2015:

- 1. Communications Policy***
- 2. Customer Service Charter***
- 3. Complaints Policy***

In January 2015 the Leadership Team was consulted in relation to the implementation of these policies and the charter. At this meeting it was determined that the proposed Communications Policy would be more appropriately separated into a Media Policy and a Customer Service Policy.

At the 24 March 2015 Ordinary Council Meeting an item was presented to Council requesting that the Council consider the adoption of a Customer Service and a Complaints Management Policy and to seek public comment on the content for the Council to subsequently consider. The Council resolved to:

COUNCIL DECISION

Minute No. 10837

That Council:

- 1. Endorse the Customer Service Policy effective immediately;***
- 2. Endorse the Complaints Management Policy effective immediately;***

3. Directs the Acting Chief Executive Officer to seek public comment in relation to the Customer Service Policy and the Complaints Management Policy;

4. Notes that the Communications Policy resolved at the December Ordinary Meeting of Council has been separated into two policies, being the Customer Services Policy and a new Media Policy that is currently in development;

5. Notes that to ensure the appropriate implementation of a Customer Service Charter incorporating service standards, the Shire will require a significant review of procedures and systems to support its implementation and ongoing measurement against the standards set, which is not funded in 2014/15 and would need to be considered as part of the 2015/16 Budget Process.

STATUTORY IMPLICATIONS

The Local Government Act 1995 and associated regulations only provides avenues for dealing with complaints in relation to the conduct of councillors. However, the recommended policies are broader than this.

POLICY IMPLICATIONS

The Customer Service Policy and Complaints Management Policy align with the Code of Conduct.

It should be noted that the *Local Government (Rules of Conduct) Regulations 2007* were introduced to provide a disciplinary framework to deal with individual misconduct by local government council members. The regulations only apply to complaints against elected members and do not apply to complaints about employees hence these policies are broader in their application.

FINANCIAL IMPLICATIONS

A minor cost was incurred in seeking public comment through advertising, however the costs are already contained in the 2014/15 budget. There will be no further costs incurred pertaining to the implementation of these policies.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

In accordance with CP GOV-3100 Community Engagement Policy, a formal public consultation process was undertaken for a period of 28 days from 15 April 2015 to 13 May. The Shire advertised in the Kimberley Echo on 23 April 2015, along with the Shire's website and Facebook page for the duration of the period with the intention of seeking public comment.

One (1) submission was received from a local community member for consideration and a copy of this submission is provided as Attachment 1.

COMMENT

The purpose of these 2 policies is to establish the Council's commitment to delivering professional and quality customer service within limited Shire resources, priorities and risk management requirements.

The table below outlines the comments made by the community member, and the officer's response to those comments.

SUBMISSION COMMENTS	OFFICER'S RESPONSE
COMPLAINTS MANAGEMENT POLICY	
1. The Scope of this Policy is limited to 4 categories. Why? Does this cover all? If not, how does the Shire deal with complaints that don't fall under these categories? (eg. Like those areas listed as being excluded from this policy)?	The categories excluded from the list are covered by the Shire's Customer Service Policy and Code of Conduct or by the <i>Local Government (Rules of Conduct) Regulations 2007</i> .
2. Don't the exclusion of "An expression of dissatisfaction with the behaviour or performance of a Councillor" (i.e. 'elected member') and "An expression of dissatisfaction with the behaviour or performance of a staff member" contradict the inclusion of the categories of "Contract and performance of elected members" and "Staff behaviour and misconduct"?	The Council's Code of Conduct is quite specific in what it deals with, whereas this Policy allows all matters outside the Code of Conduct to also be managed appropriately.
3. What means "A work-related grievance of an Officer or contractor"?	A work-related grievance is a concern, problem or complaint that arises in relation to the duties of an Officer or contractor whilst performing their duties of Shire business.
4. Point 5 of SWEK Commitment to Complaints Handling: who decides what is "reasonable" or "unreasonable"? How do you measure this?	A course of reasonable action is any course of action that follows the formal processes outlined within the Shire's policies and within local government legislation. A course of action will be deemed unreasonable by the Chief Executive Officer once continual efforts to resolve the issue have been exhausted and the complainant continues to put pressure on or significantly diverts the Shire's available resources above and beyond the mechanisms contained within the policies and legislation to resolve the issue.

CUSTOMER SERVICE POLICY

1."Customer who cannot be satisfied..."Do I understand this right, that if "the Council is unable to assist" the customers or the customers "disagree with the action Council has taken" this will be then handled as a Complaint under the Complaints Policy? Or what would be the next step for a customer if it feels the answers or actions of the Council were not satisfactory?	Depending on what type of issue is being raised, the Complainant will be referred accordingly to the next course of action that can be taken to try and resolve the issue. They may be referred to the Complaints Policy or Code Of Conduct or to the Western Australian Ombudsman for an external review of the issue.
2. "Vexatious Concerns": Is it the Chief Executive Office only who will decide what is a concern "without any proper or justified cause"?	The Chief Executive Officer will determine as to whether a customer becomes vexatious but only after all other avenues have been completely exhausted and only if they fall within the definition of vexatious as outline in the Customer Service Policy.
3. Point 4 under "Customer Service Process": good one!	The Shire's Officers are at all times expected to adhere to the guidelines as set out in the Council Policies, Code of Conduct and legislation when dealing with customers, and appropriate action is outlined to ensure that the Shire has the mechanisms in place to ensure an appropriate level of service is provided to the community.

Based on the comments received from the community, it is not considered that the policies require amendment.

ATTACHMENTS

Attachment 1 – Public Submission
Attachment 2 – Complaints Management Policy
Attachment 3 – Customer Service Policy

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Thanks the community member for their feedback on the Customer Service and Complaints Management Policies;
2. Adopts the Customer Service Policy;
3. Adopts the Complaints Management Policy.

COUNCIL DECISION

Minute No.10977

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council:

- 1. Thanks the community member for their feedback on the Customer Service and Complaints Management Policies;**
- 2. Adopts the Customer Service Policy;**
- 3. Adopts the Complaints Management Policy.**

Carried Unanimously 9/0


Dear Louise Gee,

Here are just a few thoughts and questions to the Complaints Management and Customer Service Policies the Shire has drafted.

I assume these were formulated as a response to the general restlessness and dissatisfaction of the wider community with the Shire in recent years. I also hope that the Shire understands this as an indication for the need to make amends with the Community it is meant to serve, and restore faith in itself.

Whether this was imposed by higher authorities or initiated by the Shire itself, I commend the Shire in this attempt to create a clear and fair guideline about how to deal with above areas.

In regards to the Complaints Management Policy:

- The scope of this Policy is limited to 4 categories.
Why? Does this cover all? If not, how does the Shire deal with complaints that don't fall under these categories (e.g. like those areas listed as being excluded from this policy)? 
 - Don't the exclusion of "An expression of dissatisfaction with the behaviour or performance of a Councillor" (i.e. 'elected member') and "An expression of dissatisfaction with the behaviour or performance of a staff member" contradict the inclusion of the categories of "Contact and performance of elected members" and "Staff behaviour and misconduct"?
 - What means "A work-related grievance of an Officer or contractor"?
 - Point 5 of SWEK Commitment to Complaints Handling: who decides what is "reasonable" or "unreasonable"? How do you measure this?
-
- Am I right to think that whatever complaint doesn't fit under this policy has to be taken to the Ombudsman?

In regards to the Customer Service Policy:

- "Customer who cannot be satisfied...": Do I understand this right, that if "the Council is unable to assist" the customer or the customer "disagree with the action Council has taken" this will be then handled as a Complaint under the Complaint Policy? Or what would be the next step for a customer if it feels the answers or actions of the Council were not satisfactory?
- "Vexatious Concerns": Is it the Chief Executive Officer only who will decide what is a concern "without any proper or justified cause"?
- Point 4 under "Customer Service Process": good one!

I understand the need for rules that prevent the Shire from being bogged down with 'unproductive' requests from community members. On the other hand citizens need to be assured that they are taken notice of with their concerns (even if these should be uncomfortable to the Shire), and not muted by the same rules.

Can you please confirm that in spite of these policies any resident can talk to any of the councillors (and visa versa) at any time, given the fact that they are the elected members to represent the residents' interests?

Regards, Silke Becke



POLICY NO	CP	
POLICY	Complaints Management Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 24/03/15	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: June 2015	
LEGISLATION	<i>Local Government Act 1995 – Sections 2.7, 5.40, 5.41</i> <i>State Records Act 2000</i> <i>Freedom of Information Act 1992</i>	
RELATED POLICIES	Customer Service Policy Council's Code of Conduct Records Management Policy	
RELATED PROCEDURES		

PURPOSE:

The purpose of this policy is to demonstrate the Council's commitment to provide an efficient, transparent, fair and accessible framework that will ensure the effective and timely resolution of complaints.

DEFINITIONS:

A **complaint** should not be confused with a **customer service request** or a **concern**.

Complaint is an expression of dissatisfaction with Council's level of service, employees, or policies and procedures affecting an individual or group of customers that has been received in writing.

Concern is any matter of interest or importance to the customer.

Customer is any person or organisation having dealings with the Shire of Wyndham East Kimberley.

Customer Service Request is a request for the provision of services (including the provision of information); a report about damaged or faulty infrastructure; a report requiring action by the Shire, for example reports about noise, dogs, unauthorised building work or similar issues that fall into the regulatory aspects of the Shire's service provision. All customer service requests will be recorded as a Customer Service Request within the Records Module of SynergySoft (the Shire's software system).

POLICY STATEMENTS:

Scope

This Policy applies to all Councillors and staff at the Shire of Wyndham East Kimberley who deal with customers, members of the public, other agencies, service providers, community organisations or other members of staff. The policy applies to all customer complaints made in writing, in relation to:

- Administrative actions of the Shire;
- Competitive neutrality;
- Conduct and performance of elected members;
- Staff behaviour and misconduct.

This Policy does not apply to:

- A customer service request.
- Verbal advice of unsatisfactory service or performance.
- Disagreement with a policy or the direction of the Council.
- A request for information or an explanation of a policy or procedure.
- A complaint for which statutory review processes exist, such as an appeal against a planning decision for which there are appeal provisions in the Planning and Development Act 1995.
- An expression of dissatisfaction with the behaviour or performance of a Councillor whereby the mechanism is contained in the *Local Government (Rules of Conduct) Regulations 2007* or Council's Code of Conduct.
- An expression of dissatisfaction with the behaviour or performance of a staff member whereby the mechanism is contained in the Council's Code of Conduct.
- A work-related grievance of an Officer or contractor.

The Shire of Wyndham East Kimberley's Commitment to Complaints Handling

We are committed to ensure that the following 10 key principles form the basis of our complaints handling process:

1. Customer Focused
The organisation is committed to effective complaint handling and values feedback through complaints.
2. Visibility
Information about how and where to complain is well publicised to customers, staff and other interested parties.
3. Accessibility
The process of making a complaint and investigating it is easy for complainants to access and understand.
4. Responsiveness
Complaints are acknowledged in a timely manner, addressed promptly and according to order of urgency, and the complainant is kept informed throughout the process.

5. Objectivity and Fairness

Complaints are dealt with in an equitable, objective and unbiased manner. This will help to ensure that the complaint handling process is fair and reasonable. Unreasonable complainant conduct is not allowed to become a burden.

6. Confidentiality

Personal information related to complaints is kept confidential.

7. Remedy

If a complaint is upheld, the organisation provides a remedy.

8. Review

There are opportunities for internal and external review and/or appeal about the organisation's response to the complaint, and the complainants are informed about these avenues.

9. Accountability

Accountabilities for complaint handling are clearly established, and complaints and responses to them are monitored and reported to management and other stakeholders.

10. Continuous Improvement

Complaints are a source of improvement for the Shire.

To ensure that decision making is fair and reasonable, the rules or principles of natural justice will be applied to all investigations. This includes:

- The right to a fair hearing through:
 - An absence of bias;
 - Decisions based on evidence; and
 - Proper examination of all issues.

Anonymous Complaints

Limitations will apply to the investigation of anonymous complaints.

Anonymous complaints will not be investigated unless the matter is:

1. A matter for which the Shire is obliged to act, prescribed in the *Local Government Act 1995*, the *Corruption and Crime Commission Act 2003* or under any other written law;
2. A matter which if not attended to could reasonably constitute a significant risk to the health and/or safety of persons, animals or the environment.

EXPLANATORY NOTES:

How You Can Contact Us

You can contact us to make a complaint:

1. By post to PO Box 614, Kununurra, WA, 6743
2. By email to: mail@swek.wa.gov.au
3. Via the internet by visiting the Shire's website at: www.swek.wa.gov.au

Service Standards

1. When you, as a customer, visit or telephone the Shire, we will:
 - Treat you politely and with respect;
 - Listening carefully to what you say;
 - Provide a prompt, relevant, accurate and professional service;
 - Referring you, where appropriate, to alternative places where the service may be available if the Shire is not able to provide the service you seek;
 - Treating your personal information with confidentiality;
 - Being helpful and sensitive to your needs;
 - Keep you informed if the resolution to your enquiry is being delayed.

2. Where an enquiry is of a complex nature, or a meeting with a specific Officer is required, customers are requested to make a prior appointment.

3. Response Times
 - The Shire undertakes a wide variety of activities which vary both in complexity and time taken to complete.
 - If you lodge a complaint, you will be provided with an acknowledgement of receipt within 10 working days to your nominated postal address.
 - After an acknowledgement is issued, the response times will be dependent upon your complaint and the investigations involved whereby Officers will endeavour to keep you informed of the progress.
 - Following the investigation of your complaint a response will be forwarded to your nominated postal address.
 - These response times extend to any online communications.

Our Expectations of Our Customers

To help us to help you, we ask that you:

- Treat our staff courteously and with mutual respect.
- Respect the privacy and rights of other people.
- Provide us with your name, address and telephone number so that complaints can be responded to.
- Provide complete and accurate details of your complaint and work with us to resolve these together.
- Provide separate communications for individual complaints.
- These expectations extend to any online communications.

Customer Service Process

1. If a customer is not satisfied with the outcome of a complaint, you have the right to request an internal review. The internal review will be undertaken by a staff member who:
 - is not subordinate to the staff member who conducted the initial review; and
 - Is not a staff member who was involved in dealing with the complaint.
2. If a customer is not satisfied by the internal review outcome of a complaint, you have the right to make a complaint to the Ombudsman Western Australia.

How to Lodge a Complaint to the Ombudsman Western Australia

You can lodge your complaint by post, fax or email, or deliver it directly to the Ombudsman's office using the contact details listed below:

Ombudsman Western Australia

Level 2, Albert Facey House

469 Wellington Street, Perth, WA, 6000

PO Box Z5386

St Georges Terrace, Perth, WA, 6831

Email: mail@ombudsman.wa.gov.au

Please also refer to the Ombudsman's website for assistance and guidelines relevant to lodging a complaint: www.ombudsman.wa.gov.au

General

In all of the situations referred to in this Policy, adequate documentary records must be made and maintained on the appropriate Shire file.

RISK:

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

Risk: Inability to deliver levels of service expected by the community.

Control: Current budget and service levels.

Risk: Loss of corporate knowledge with staff turnover.

Control: Documentation of service procedures; multi-skilling where appropriate.

Risk: Wrong advice provided by CEO leading to political damage or financial loss.

Control: Seek specialist technical and legislative/legal advice from relevant agencies and organisations.

Risk: Poor communication of Council issues to the community.

Control: Media and communications policy and procedures; media training for Councillors.



POLICY NO	CP	
POLICY	Customer Service Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 24/03/15	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: June 2015	
LEGISLATION	<i>Local Government Act 1995 – Sections 2.7, 5.40, 5.41</i> <i>State Records Act 2000</i> <i>Freedom of Information Act 1992</i> <i>Occupational Safety and Health Act 1984</i>	
RELATED POLICIES	Complaint Management Policy Council's Code of Conduct Records Management Policy	
RELATED PROCEDURES		

PURPOSE:

The purpose of this policy is to establish Council's commitment to delivering professional and quality customer services within the limits of Council resources, priorities and risk management requirements.

The Policy aims to:

1. Promote consistency and fairness in the manner in which the Shire responds to customer service requests, concerns and compliments;
2. Make Council's Policies, and the limits for addressing customer service requests accessible and understandable to the customer;
3. Ensure customers receive full and appropriate level of service within the bounds of available resources, priorities and risk management requirements;
4. Promote leading practice behaviours and attitudes as the basis for effective and efficient customer service.

This Policy should be read in conjunction with Ombudsman Western Australia's "Guidelines on Complaint Handling" and "Managing Unreasonable Complainant Conduct: Practice Manual".

DEFINITION:

Complaint is an expression of dissatisfaction with Council's level of service, employees, or policies and procedures affecting an individual or group of customers.

Compliment is a statement of satisfaction regarding Council's level of service, employees, or policies and procedures affecting an individual or group of customers.

Concern is any matter of interest or importance to the customer.

Customer is any person or organisation having dealings with the Shire of Wyndham East Kimberley.

Customers Who Cannot Be Satisfied and/or Constantly Raise the Same Issue With Different Staff may include any person or groups who do not accept that the Council is unable to assist them, provide any further assistance or level of service than has been provided already and/or disagree with the action Council has taken in relation to the complaint, concern or customer service request and who continue to make representations to staff insisting, demanding action/attention/resolution to their matter.

Customers Who Make Unreasonable Demands include any person whose demands staff to significantly and unreasonable divert Council's resources away from core functions or create an unequitable allocation of resources to other customers. Such demands may result from the amount of information requested, the nature or scale of services sought or the number of approaches seeking information, assistance or service.

Customer Service Request is a request for the provision of services (including the provision of information); a report about damaged or faulty infrastructure; a report requiring action by the Shire, for example reports about noise, dogs, unauthorised building work or similar issues that fall into the regulatory aspects of the Shire's service provision. All customer service requests will be recorded as a Customer Service Request within the Records Module of SynergySoft (the Shire's software system).

Difficult Customer Behaviours includes behaviour that is rude, abusive or aggressive through expressions or gestures, verbal abuse of a personal or general nature, intimidating, threatening or offensive behaviour, physical violence or physical violence against a person.

Service Standard is a stated timeframe for the completion of customer service requests as published in the Council's Customer Service Charter (under development).

Unreasonable Behaviour includes behaviour from those who, because of their contacts with the Shire and staff, negatively impact on the ability to deal effectively with their, or other customer's concerns, requests or complaints.

Vexatious Concerns, Customer Service Requests or Requests for Information include those that are likely to cause distress, disruption, irritation or embarrassment, without any proper or justified cause.

POLICY STATEMENTS:

Scope

This Policy applies to all Councillors and staff at the Shire of Wyndham East Kimberley who deal with customers, members of the public, other agencies, service providers, community organisations or other members of staff. The policy applies to all customer compliments, concerns and customer service requests made by customers in relation to the Shire's operations.

This Policy does not apply to concerns or complaints about the conduct of Councillors or staff that are in accordance with prescribed rules of conduct as described in the *Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007* or the Council's Code of Conduct. Please refer to Council's Complaint Management Policy and Code of Conduct.

The Shire of Wyndham East Kimberley's Commitment to Customer Service

- We are committed to the timely, efficient, and consistent delivery of a range of quality services which support the vision and mission contained within the Strategic Community Plan 2012-2022:

Vision:-

For the East Kimberley to be a thriving community with opportunities for all.

Mission:-

To enable the East Kimberley to develop in a manner that will achieve social, cultural, economic and environmental benefits for all.

- We will ensure that all customer contact is fair, courteous, respectful and professional. We subscribe to continuous improvement in service delivery to meet the changing needs of our customers and community.
- We will provide accurate information and advice about a customer's obligations and entitlements.
- We strive to provide a level of service that does not attract complaints, however in the instances where customers are dissatisfied, we will take all possible steps to achieve a resolution.

EXPLANATORY NOTES:

How You Can Contact Us

You can contact us to make an enquiry, lodge a customer service request, concern or compliment:

1. In person by visiting one of the Shire Administration Offices, or by telephone between the hours of 8:00am to 4:00pm Monday to Friday (except Public Holidays) at:

Kununurra Administration Office

20 Coolibah Drive, Kununurra

Ph: (08) 9168 4100

Fax: (08) 9168 1798

Wyndham Administration Office

Koolama Street, Wyndham

Ph: (08) 9161 1002

Fax: (08) 9161 1295

2. By post to PO Box 614, Kununurra, WA, 6743
3. By email to: mail@swek.wa.gov.au
4. Via the internet by visiting the Shire's website at: www.swek.wa.gov.au

Service Standards

- When you, as a customer, visit or telephone the Shire, we will:
 - Treat you politely and with respect;
 - Listening carefully to what you say;
 - Provide a prompt, relevant, accurate and professional service;
 - Refer you, where appropriate, to alternative places where the service may be available if the Shire is not able to provide the service you seek;
 - Treat your personal information with confidentiality;
 - Be helpful and sensitive to your needs;
 - Keep you informed if the resolution to your enquiry is being delayed.
- Where an enquiry is of a complex nature, or a meeting with a specific Officer is required, customers are requested to make a prior appointment.
- Response Times
 - The Shire undertakes a wide variety of activities which vary both in complexity and time taken to complete.
 - If you lodge a concern, request for information or a customer service request, you will be provided with an acknowledgement of receipt within 10 working days.
 - After an acknowledgement is issued, the response times will be dependent upon your request or concern, whereby Officers will endeavour to keep you informed of the progress.
 - The Shire is currently developing a schedule of processing/response times to provide a guide to the most common service requests, with target times for completion or resolution.
 - Response times extend to any online communications.

- Accessibility
 - We will make our services accessible for customers by supplementing personal contact options with a range of web and telephone-based payment, service request and information services.

Our Expectations of Our Customers

To help us to help you, we ask that you:

- Treat our staff courteously and with mutual respect.
- To respect the privacy and rights of other people.
- Provide us with your name, address and telephone number so that compliments, customer service requests and concerns can be registered and responded to.
- Provide complete and accurate details of your customer service request or concern and work with us to resolve these together.
- Provide separate communications for individual issues.
- Report any damage to, or failure of, the Shire's infrastructure or property.
- Provide us with constructive feedback.
- Phone to make an appointment for a complex enquiry or a need to see a specific Officer.

Customer Service Process

1. If a customer's dissatisfaction relates to a failure in the Shire's infrastructure or service, such as potholes in a road, or an uneven footpath, this will be treated in the first instance as a customer service request.
2. A customer service request may be lodged by telephone or in writing, at the Customer Service counter, or via the internet where an appropriate department or Officer will be allocated the task.
3. If a customer is not satisfied with the outcome of a customer service request or concern, or the matter relates to unsatisfactory conduct of an Officer(s), the matter will be treated as a complaint and dealt with by the Chief Executive Officer. All complaints are to be lodged in writing. Please refer to the Complaints Management Policy for further information.
4. We commit to a range of options for addressing unfair and incorrect decisions, or any unreasonable Policy or procedure, or any inappropriate response, action or treatment by an Officer. Appropriate remedies may include:
 - Admission of fault and apology
 - Explanation
 - Change of decision
 - Change to a policy or procedure
 - Repair / rework / replacement
 - Counselling or disciplining of staff

More than one remedy may be applied if the circumstances justify that course of action.

Dealing with Difficult Customer Behaviours

Councillors and staff aim to treat customers with respect at all times and to make every reasonable effort to address the customer's needs even if they are being difficult or demanding. However, customers are also expected to treat staff and Councillors with respect and courtesy. This expectation is also extended to any online communications.

Customers Who Cannot Be Satisfied and/or Constantly Raise the Same Issue With Different Staff

It is certain however, that whatever standard or professional and positive customer service the Shire achieves, there will always be a small percentage of customers whose issues cannot be dealt with to their satisfaction. This may be the result of a refusal by the customer to accept a decision, demands placed on the Council or staff which are not within our scope or resources to meet, or a level of rudeness or aggression shown to staff or a Councillor by the customer that makes it unsafe or unreasonable to proceed. In these situations the Shire will take steps to ensure our staff's health, safety and wellbeing is protected.

If, in the opinion of the Chief Executive Officer, a customer cannot be satisfied and all appropriate avenues of internal review or appeal have been exhausted and the customer continues to write, telephone, email and/or visit the Council the following actions may be taken:

1. Not accept any further phone calls from the customer;
2. Not grant any further interviews (meetings);
3. Continue to receive, read and file correspondence including online communications, but only acknowledge or otherwise respond to it if:
 - a. The customer provides significant new information relating to their concern, customer service request or complaint;
 - b. The customer raises new issues which, in the Chief Executive Officer's opinion, warrant fresh action.

If in the opinion of the Chief Executive Officer, a customer is constantly raising the same issues with different staff, the Chief Executive Officer may notify the customer that:

1. Only a nominated staff member will deal with them in the future;
2. They must make an appointment with that person if they wish to discuss their matter;
or
3. All future contact with the Council must be in writing.

The customer will be given the opportunity to make representations about Council's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

The Chief Executive Officer will advise Councillors of any correspondence issued to customers who cannot be satisfied.

Customers Who Make Unreasonable Demands

If, in the opinion of the Chief Executive Officer, a customer is making unreasonable demands on the Council or staff and the customer continues to write, telephone, email and/or visit the Council the following actions may be taken:

1. The Chief Executive Officer may write to the customer advising them of the Council's concern and requesting that they limit and focus their requests and that if the customer continues to place unreasonable demands on the organisation then the Shire may;
 - a. Not respond to any future correspondence and only take action where, in the opinion of the Chief Executive Officer, the correspondence raises specific, substantial and serious issues; or
 - b. Only respond to a certain number of requests in a given period.

The customer will be given the opportunity to make representations about Council's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

Customers Who Are Demonstrating Difficult Customer Behaviours

If, in the opinion of any staff member, rude, abusive or aggressive comments or statements are made in telephone conversations or meetings, the staff member may:

1. Warn the customer that if the behaviour continues, that the conversation or meeting will be terminated;
2. Terminate the conversation or meeting if the rude, abusive or aggressive behaviour continues after a warning has been given;
3. Call upon a Manager or Police, as appropriate, if there is a perceived threat.

Where a conversation or meeting has been terminated, the staff member must notify the Chief Executive Officer as soon as possible.

If, in the opinion of the Chief Executive Officer, any correspondence to Council contains personal abuse, inflammatory statements or material clearly intended to intimidate, it will be returned to the sender and not otherwise acted upon.

Vexatious Customers

If a customer continues to make representations:

- That have no basis of fact and/or are considered frivolous or mischievous;
- That are conducted in a manner to harass or annoy, to cause delay or detriment, or any other wrongful purpose;
- That have been instituted or pursued without reasonable grounds;
- Whereby the customer is unreasonable in their persistence of demands;
- Whereby the customer demonstrates an unreasonable lack of cooperation;
- Whereby any staff member's personal boundaries are made to feel threatened, stressed or ill at ease through any of the customer's behaviours;

the Chief Executive Officer may declare them to be a vexatious customer and the following actions may be taken:

1. Not accept any further phone calls from the customer;
2. Not grant any further interviews (meetings);
3. Continue to receive, read and file correspondence but only acknowledge or otherwise respond to it if:
 - a. The customer provides significant new information relating to their concern, customer service request or complaint;
 - b. The customer raises new issues which, in the Chief Executive Officer's opinion, warrant fresh action.

The customer will be given the opportunity to make representations about the Shire's proposed course of action and will be referred to Council's Complaint Management Policy or Council's Code of Conduct for options available to them by way of formal complaint about particular staff or via submissions they might make to the Western Australian Ombudsman.

The Chief Executive Officer will advise Councillors of any correspondence issued to customers that have been deemed to be vexatious.

General

In all of the situations referred to in this Policy, adequate documentary records must be made and maintained on the appropriate Shire file.

Where the Chief Executive Officer determines to limit a customer's access to the Shire in any of the ways specified in this Policy, the Chief Executive Officer must advise the Councillors as soon as possible of the relevant circumstances and the action taken.

RISK:

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

Risk: Inability to deliver levels of service expected by the community.

Control: Current budget and service levels.

Risk: Loss of corporate knowledge with staff turnover.

Control: Documentation of service procedures; multi-skilling where appropriate.

Risk: Wrong advice provided by CEO leading to political damage or financial loss.

Control: Seek specialist technical and legislative/legal advice from relevant agencies and organisations.

Risk: Poor communication of Council issues to the community.

Control: Media and communications policy and procedures; media training for Councillors.

**13.1.5 2015/16 Budget – Differential General Rates and Minimum
Payments – Consideration of Public Submissions**

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Natalie Octoman, Director Corporate Services
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.05.11
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

For the Council to consider the five (5) formal public submissions received in relation to the proposed rates in the dollar and minimum payments in accordance with section 6.36 (4) of the *Local Government Act 1995* and subsequently adopt the recommended rates in the dollar and minimum payments as advertised. It should be noted that there were 10 late submissions received after the closing time, which have been included for information purposes.

BACKGROUND

At the Special Council Meeting held on 12 May 2015, the Council resolved:

***COUNCIL DECISION
Minute No. 10931***

That Council:

a. Endorses for advertising for a minimum of twenty-one (21) days and seeks public submissions on:

i. The Strategic Rating Policy that outlines the principles which underpin the proposed 2015/16 rating model, including the Objects of and Reasons for Differential Rates;

ii. The following proposed differential general rates and minimum payments to be applied from 1 July 2015 for the 2015/16 financial year in accordance with section 6.36 of the Local Government Act 1995:

Differential Rating Category	Rate In the Dollar (cents)	Minimum Payment
GRV Residential	9.4738	1,105.00
GRV Other Vacant	14.2107	1,105.00
GRV Commercial	12.3159	1,105.00
GRV Industrial	11.3686	1,105.00
UV Rural Residential	0.9979	1,105.00
UV Pastoral	5.3637	1,105.00
UV Commercial/Industrial	0.6843	1,105.00
UV Rural Agriculture 1	0.9677	1,105.00
UV Rural Agriculture 2	0.6843	1,105.00
UV Mining	28.0312	1,105.00
UV Mining Vacant	14.0156	553.00
UV Other	0.6420	1,105.00

COUNCIL DECISION

Minute No. 10932

That Council notes:

a. That approval from the Minister for Local Government and Communities will need to be sought subsequent to the consideration of public submissions for:

i. Imposing a minimum payment on the GRV Other Vacant rating category which result in more than 50% of the properties in this category being subject to minimum payments, in accordance with section 6.35(5) of the Local Government Act 1995; and

ii. Imposing a rate in the dollar for UV Mining, UV Mining Vacant and UV Pastoral which will result in it being more than twice the lowest differential general rate imposed, in accordance with section 6.33(3) of the Local Government Act 1995.

b. That the 2015/16 rates in the dollar and minimum payments proposed, cannot be adopted by the Council for incorporation into the budget until after Ministerial approval has been granted.

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 6

Division 6 – Rates and service charges

6.33. Differential general rates

(1) A local government may impose differential general rates according to any, or a combination, of the following characteristics —

- (a) the purpose for which the land is zoned under a local planning scheme in force under the Planning and Development Act 2005;
- (b) the predominant purpose for which the land is held or used as determined by the local government;
- (c) whether or not the land is vacant land; or
- (d) any other characteristic or combination of characteristics prescribed.

(2) Regulations may —

- (a) specify the characteristics under subsection (1) which a local government is to use; or

- (b) limit the characteristics under subsection (1) which a local government is permitted to use.*
- (3) In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*
- (4) If during the financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1)(a) applies.*

6.35. Minimum payment

- (1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
- (2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.*
- (3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than -*
 - (a) 50% of the total number of separately rated properties in the district; or*
 - (b) 50% of the number of properties in each category referred to in subsection (6),**on which a minimum payment is imposed.*
- (4) A minimum payment is not to be imposed on more than the prescribed percentage of -*
 - (a) the number of separately rated properties in the district; or*
 - (b) the number of properties in each category referred to in subsection (6),**unless the general minimum does not exceed the prescribed amount.*
- (5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories -*
 - (a) to land rated on gross rental value;*
 - (b) to land rated on unimproved value; and*
 - (c) to each differential rating category where a differential general rate is imposed.*

6.36. Local government to give notice of certain rates

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.
- (2) A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).
- (3) A notice referred to in subsection (1)
 - (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency;
 - (b) is to contain -
 - (i) details of each rate or minimum payment the local government intends to impose;
 - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and
 - (iii) any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed; and
 - (c) is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.
- (5) Where a local government -
 - (a) in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or
 - (b) proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),

it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.

Local Government (Financial Management) Regulations 1996

52A. Differential general rates — s. 6.33(1)(d)

6.33 (1)(d) For the purposes of section 6.33(1)(d), the following are prescribed characteristics —

- (a) whether or not the land is situated in a townsite as defined in the Land Administration Act 1997 section 3(1);
- (b) whether or not the land is situated in a particular part of the district of the local government.

POLICY IMPLICATIONS

The proposed differential general rates and minimum payments are incorporated into the Council's revised *CP/FIN-3200 Strategic Rating Policy* which is proposed and has aligned the rating model more closely to the current Town Planning Scheme No. 7 Kununurra and Environs (TPS7) and the current Town Planning Scheme No. 6 Wyndham Townsite (TPS6) in terms of land use.

If there are modifications to the proposed differential general rates or minimum payments from those advertised, then *CP/FIN-3200 Strategic Rating Policy* will need to also be amended to reflect the modifications.

FINANCIAL IMPLICATIONS

The proposed differential general rates and minimum payments are expected to yield total net rate revenue of \$10,130,193 (\$10,177,889 less concessions currently approved of 47,695) in 2015/16. It should be noted that the variation in the overall rating yield will modify the amount of funds to transfer into the Asset Management Reserve to \$28,680.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

Strategy 1.4.2: Improve the efficiency and productivity of Shire services

Strategy 1.4.3: Maintain Council's long term financial viability

COMMUNITY CONSULTATION

In accordance with the Council resolution, advertising of the proposed rates occurred in the following manner in order to seek public submissions:

- Local public notice in the Kimberley Echo on Thursday 21 May and 4 of June 2015; and
- The Shire's facebook page post on 17 May 2015 indicated that the Shire had issued a public notice advertising the Council's intent to impose Differential Rates and Minimum Payments for 2015/16 and to refer to the news section of the Shire's website for full details; and
- A copy of the Notice to Impose Differential General Rates and Minimum Payments for 2015/16, including the Strategic Rating Policy was placed on the Shire's website on Monday 18 May 2015; public noticeboards at the Civic Centres and Libraries in both Kununurra and Wyndham;
- All ratepayers who lodged a submission have been personally responded to, and also invited to the Ordinary Council Meeting on 23 June 2015.

COMMENT

The effective date for the commencement of local public notice was Thursday 21 May 2014, with submissions to be received by 4pm Friday 12 June 2015. At the conclusion of the public submission period, there were five (5) submissions received.

A further submission was received dated the 12th however it was not sent to the Shire until the 14th of June. There was also an additional submission (multiplied by 9) received on the 17th of June. As these were submitted after the closing time, it is not considered to be a formal submission however it has been attached for the Council's information to ensure openness and transparency of the process.

The five (5) formal submissions and the ten late submissions are provided as Attachment 1 to this report. The formal submissions have been summarised below:

Sub'n	Ratepayer	Proposed Differential General Rate Category	Submission Summary	Officers' Comments
1	Adam Hunter	<ul style="list-style-type: none"> GRV Residential 	<ul style="list-style-type: none"> Increase in rates unaffordable. Businesses increasing costs to cover rates increases. Owner-occupiers should receive a break in the rates increase and increase on investment properties. 	<ul style="list-style-type: none"> Period of significant economic development concluded. Significant review of services undertaken in 2014/15 in an attempt to reduce costs and return to core service provision and sustainable asset management. Legislation prevents the Council treating owner-occupiers differently to investors of residential property.
2	Christopher Longson	<ul style="list-style-type: none"> GRV Residential 	<ul style="list-style-type: none"> No increase to fees or rates and the Shire should spend less. 	<ul style="list-style-type: none"> Significant review of services undertaken in 2014/15 in an attempt to reduce costs and return to core service provision and sustainable asset management.
			<ul style="list-style-type: none"> Suggestions include: <ul style="list-style-type: none"> Cease cash grants – in-kind assistance only 	<ul style="list-style-type: none"> Decision of Council in accordance with Council Policy <i>CP/COM-3582 Annual Community Grants Scheme</i>
			<ul style="list-style-type: none"> Cease providing rates exemptions for religious premises 	<ul style="list-style-type: none"> Must provide exemptions as not considered rateable land in accordance with section 6.26(2)(d) of the <i>Local Government Act 1995</i> which states: 6.26. <i>Rateable land</i> (2) <i>The following land is not rateable land –</i> (d) <i>land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood</i>
			<ul style="list-style-type: none"> Enforce existing anti-littering laws/fines or abolish ranger positions and 	<ul style="list-style-type: none"> Enforcement activities have been reduced as a result of lower staffing levels, however it is still pursued.

			vehicles	
			<ul style="list-style-type: none"> ○ Reduce by 50% the number of light vehicles – keep rest longer – don't purchase 4WD replacements 	<ul style="list-style-type: none"> • The appropriate number and type of vehicles are owned by the Shire for operational purposes. Any significant reductions in numbers would have a serious effect on operational capabilities. • Vehicles are replaced at the best time in their economic life for the Shire.
			<ul style="list-style-type: none"> ○ Eliminate use of consultants – should be function of Executive Management Team 	<ul style="list-style-type: none"> • With over 200 types of services provided by a local government, there is going to be some external expertise required particularly considering the resourcing requirements and capacity of existing staff members, however there has been a clear reduction in the use of consultants over time.
			<ul style="list-style-type: none"> ○ Use teleconferencing for out of area meetings 	<ul style="list-style-type: none"> • Teleconferencing and video-conferencing facilities are highly utilised by the Shire where possible.
			<ul style="list-style-type: none"> ○ Capital Grants from State/Federal government should be refused if no ongoing maintenance provision included in the funding 	<ul style="list-style-type: none"> • This is a policy decision for the Council at the time.
			<ul style="list-style-type: none"> ○ Remove excessive amount of overburden used to cover rubbish 	<ul style="list-style-type: none"> • Both Kununurra and Wyndham landfills are licenced by the Department of Environment Regulation who mandate the amount of cover that must be applied in order for the Shire to comply with its licence conditions. The Council cannot consider reducing the amount of cover used and risk non-compliance with the licence conditions.
			<ul style="list-style-type: none"> ○ Turn off street lighting at 10pm 	<ul style="list-style-type: none"> • Street lighting was reviewed during the 2014/15 budget deliberations to determine if the lights could be turned off at midnight in residential areas generating savings for the Shire. Unfortunately without funding for an upgrade, the current street lights do not operate this way. The lights are on a timing circuit but are controlled by lux (ie. automated sense of light/darkness). The streetlights effectively switch on at a certain level of darkness and switch off again at a particular level of daylight, therefore the Shire pays for street lighting at a fixed rate per pole based on the wattage and type of globe.
			<ul style="list-style-type: none"> ○ Councillors to be paid zero 	<ul style="list-style-type: none"> • Pursuant to section 7(B) of the <i>Salaries and Allowances Act 1975</i> requires the Salaries and Allowances Tribunal to determine

				the inquire into and determine the amount of fees, or the minimum and maximum fees, expenses and allowances to be paid to elected council members. Elected members cannot be paid zero.
			<ul style="list-style-type: none"> o Pay the Executive Management Team a lot less as they have managed this overspend 	<ul style="list-style-type: none"> • This is a decision for the CEO and the Council to make in the future, and is inappropriate for the Officer to comment on particularly as the current team is relatively new to the Shire.
			<ul style="list-style-type: none"> o If Councillors or Executive Management Team are unable or incapable of rectifying the overspend then they should resign. 	<ul style="list-style-type: none"> • This would be inappropriate for the Officer to comment on and is a matter for each individual to consider.
3	Kim and Melissa Moore	GRV Residential	<ul style="list-style-type: none"> • General displeasure regarding rates increase. • Alleges the Shire has taken an easy and maybe lazy option of increasing rates to try to resolve financial issue 	<ul style="list-style-type: none"> • Period of significant economic development concluded. • Significant review of services undertaken in 2014/15 in an attempt to reduce costs and return to core service provision and sustainable asset management.
4	Maxine Middap	GRV Residential	<ul style="list-style-type: none"> • Increase above CPI unfair. • Economise on unnecessary items. • Reduce amount of pay for Councillors. • Spend money on maintaining and improving existing assets before acquiring more. • Review staffing structure. 	<ul style="list-style-type: none"> • Significant review of services undertaken in 2014/15 in an attempt to reduce costs and return to core service provision and sustainable asset management and is continuing to review costs across the organisation. • Reduced 21.9 Full Time Equivalent positions in 2014/15, almost equivalent to 20% of the workforce.
5	Silke Becke	UV Rural Agriculture 2	<ul style="list-style-type: none"> • If higher revenue received from State and Federal Government, will rates reduce? 	<ul style="list-style-type: none"> • Generally, no. Most funding for infrastructure-related purposes where additional maintenance and operational funding is required from the Shire.
			<ul style="list-style-type: none"> • Does the Shire received rates on Housing commission properties? 	<ul style="list-style-type: none"> • Yes – where they are deemed to be rateable property.
			<ul style="list-style-type: none"> • Expenditure control measures and why an increased deficit this year. 	<ul style="list-style-type: none"> • Significant review of services undertaken in 2014/15 in an attempt to reduce costs and return to core service provision and sustainable asset management and is continuing to review costs across the organisation. Further information can be sourced from the 2 September 2014 SCM agenda item. • Sale of Boobialla property has not progressed as anticipated, however achieved an additional \$245k of savings to partially cover this impact.
			<ul style="list-style-type: none"> • How are the expenditure 	<ul style="list-style-type: none"> • Mid-Year Budget Review process

			control measures monitored?	which was presented to the 28 April OCM.
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The 2015/16 rating model endorsed by the Council for advertising included the following rates revenue for each differential rate category:

Differential Rating Category	Proposed Budget Rates Revenue 2015/16
GRV Residential	\$4,510,206
GRV Other Vacant	\$207,970
GRV Commercial	\$1,825,949
GRV Industrial	\$997,974
UV Rural Residential	\$510,416
UV Pastoral	\$473,681
UV Commercial/Industrial	\$101,225
UV Rural Agriculture 1	\$686,164
UV Rural Agriculture 2	\$392,343
UV Mining	\$484,217
UV Mining Vacant	\$80,813
UV Other	\$6,692
<i>Sub-Total</i>	<i>\$10,277,651</i>
Less: Concessions	-\$48,709.74
TOTAL	\$10,228,941

Subsequent to the Council endorsing the 2015/16 Rating Model at the Special Council Meeting held on 12 May 2015 for advertising, the Shire has received interim valuation schedules from Landgate that have impacted on the total valuation, the total number of rateable properties and the total rate revenue generated when the model is applied. Officers do not generally process any interim rates within 35 days prior to the 30th of June as the due date would roll into the new financial year, and it also allows time to develop the following year's budget.

It should be noted that the State Government's pastoral lease review was completed whereby the total valuations reduced by approximately \$4.9 million. The Shire had already taken this into account and had compensated for the reduction.

Other revaluations, property changes and realignments have resulted in a reduction in the anticipated rating revenue of \$98,748 (\$10,228,941 originally anticipated less \$10,130,193 now anticipated).

Retaining the same principles that underpin the proposed Strategic Rating Policy, the following 2015/16 Budget Rating Model is presented for the Council's endorsement, which takes into account all interim rate adjustments since early May:

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Proposed Rate in the Dollar	% of Properties on Minimum Payments	Proposed Budget Rates Revenue 2015/16
GRV - Residential	1,652	47,495,614	\$ 1,105	9.4738 cents	2.72%	\$4,514,115
GRV - Other Vacant	144	993,680	\$ 1,105	14.2107 cents	77.78%	\$ 202,303
GRV – Commercial	174	14,745,782	\$ 1,105	12.3159 cents	9.77%	\$1,824,604
GRV – Industrial	174	8,753,500	\$ 1,105	11.3686 cents	4.02%	\$ 999,372
UV - Rural Res	185	51,149,000	\$ 1,105	0.9979 cents	0.00%	\$ 510,416
UV – Pastoral	24	6,188,271	\$ 1,105	5.3637 cents	4.17%	\$ 332,088
UV – Com/Ind	46	13,930,040	\$ 1,105	0.6843 cents	21.74%	\$ 102,444
UV - Rural Ag 1	80	75,110,309	\$ 1,105	0.9677 cents	2.5%	\$ 728,569
UV - Rural Ag 2	109	57,360,000	\$ 1,105	0.6843 cents	0.00%	\$ 392,514
UV - Mining	68	1,637,197	\$ 1,105	28.0312 cents	45.59%	\$ 481,128
UV Mining Vacant	61	518,351	\$553	14.0156 cents	67.21%	\$ 86,958
UV - Other	2	526,000	\$ 1,105	0.6420 cents	0%	\$ 3,377
TOTALS	2,719	278,407,744				\$10,177,889
					Concessions	-\$ 47,695
						\$10,130,193

ATTACHMENTS

Attachment 1 – Five (5) public submissions received and the response to each submission, along with the late submissions.

Attachment 2 – Amended CP/FIN-3200 Strategic Rating Policy

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Note the five (5) formal submissions received along with the late submissions regarding the advertised 2015/16 Rating Model and Strategic Rating Policy and thanks the community for their input;
2. Endorse the 2015/16 Rating Model as follows, with the intention of striking the rates as part of the 2015/16 Budget adoption, subject to receiving Ministerial approval where required by legislation:

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Proposed Rate in the Dollar	% of Properties on Minimum Payments	Proposed Budget Rates Revenue 2015/16
GRV - Residential	1,652	47,495,614	\$ 1,105	9.4738 cents	2.72%	\$4,514,115
GRV - Other Vacant	144	993,680	\$ 1,105	14.2107 cents	77.78%	\$ 202,303
GRV – Commercial	174	14,745,782	\$ 1,105	12.3159 cents	9.77%	\$1,824,604
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UV – Pastoral	24	6,188,271	\$ 1,105	5.3637 cents	4.17%	\$ 332,088
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UV - Rural Ag 1	80	75,110,309	\$ 1,105	0.9677 cents	2.5%	\$ 728,569
UV - Rural Ag 2	109	57,360,000	\$ 1,105	0.6843 cents	0.00%	\$ 392,514
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TOTALS	2,719	278,407,744				\$10,177,889
					Concessions	-\$ 47,695
						\$10,130,193

3. Requests the CEO, or their delegate to seek approval from the Minister for Local Government and Communities to approve the Shire of Wyndham East Kimberley's application for the above 2015/16 Rating Model as it is proposed:
 - a. To impose minimum payments for vacant land which will result in more than 50% of the properties in the GRV Other Vacant and UV Mining Vacant rating categories subject to minimum payments in accordance with section 6.35(5) of the *Local Government Act 1995*; and
 - b. To impose a rate in the dollar which will result in it being more than twice the lowest differential general rate imposed for UV Mining, UV Mining Vacant and UV Pastoral rating categories, in accordance with section 6.33(3) of the *Local Government Act 1995*.

MOTION

Cr B Robinson moves:

That Council:

1. Note the five (5) formal submissions received along with the late submissions regarding the advertised 2015/16 Rating Model and Strategic Rating Policy and thanks the community for their input;
2. After considering the submissions, reduces the proposed rate in the dollar increase from 6.9% to 4.2% (a reduction of 2.7%) for the applicable rating categories being GRV Residential, GRV Other Vacant, UV Rural Residential, and UV Other ensuring that this is factored into the associated multiplier relating to the GRV Commercial and GRV Industrial rating categories;

3. After considering the submissions, reduces the proposed rate in the dollar increase from 9% to 7.03% (a reduction of 2.7%) for the applicable rating categories being UV Commercial/Industrial, UV Rural Agriculture 1, UV Rural Agriculture 2 and UV Mining;
4. After considering the submissions, reduces the proposed rate in the dollar increase from 82% to 79.3% (a reduction of 2.7%) for UV Pastoral rating category;
5. Endorse the 2015/16 Rating Model as follows, with the intention of striking the rates as part of the 2015/16 Budget adoption, subject to receiving Ministerial approval where required by legislation:

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Proposed Rate in the Dollar	% of Properties on Minimum Payments	Proposed Budget Rates Revenue 2015/16
GRV - Residential	1,652	47,495,614	\$ 1,077	9.2345 cents	2.72%	\$4,400,089
GRV - Other Vacant	144	993,680	\$ 1,077	13.8518 cents	77.78%	\$ 197,183
GRV – Commercial	174	14,745,782	\$ 1,077	12.0049 cents	9.77%	\$1,778,515
GRV – Industrial	174	8,753,500	\$ 1,077	11.0814 cents	4.02%	\$ 974,128
UV - Rural Res	185	51,149,000	\$ 1,077	0.9727 cents	0.00%	\$ 497,526
UV – Pastoral	24	6,188,271	\$ 1,077	5.2842 cents	4.17%	\$ 327,154
UV – Com/Ind	46	13,930,040	\$ 1,077	0.6719 cents	21.74%	\$ 100,508
UV - Rural Ag 1	80	75,110,309	\$ 1,077	0.9502 cents	2.5%	\$ 715,377
UV - Rural Ag 2	109	57,360,000	\$ 1,077	0.6719 cents	0.00%	\$ 385,402
UV - Mining	68	1,637,197	\$ 1,077	27.5246 cents	45.59%	\$ 472,184
UV Mining Vacant	61	518,351	\$539	13.7623 cents	67.21%	\$ 85,223
UV - Other	2	526,000	\$ 1,077	0.6258 cents	0%	\$ 3,292
TOTALS	2,719	278,407,744				\$9,936,580
					Concessions	-\$ 46,491
						\$9,890,089

6. Requests the CEO, or their delegate, to modify the Strategic Rating Policy accordingly;

7. Requests the CEO, or their delegate, to investigate the quantum available to the Shire to divert from the airport as a return on investment to ratepayers in order to assist with the impact of the approximate \$245,000 that will no longer be raised in rating revenue;
8. Requests the CEO, or their delegate, to ensure that any return on investment is incorporated into the results of the 2015/16 Mid-Year Budget Review;
9. Requests the CEO, or their delegate to seek approval from the Minister for Local Government and Communities to approve the Shire of Wyndham East Kimberley's application for the above 2015/16 Rating Model as it is proposed:
 - a. To impose minimum payments for vacant land which will result in more than 50% of the properties in the GRV Other Vacant and UV Mining Vacant rating categories subject to minimum payments in accordance with section 6.35(5) of the *Local Government Act 1995*; and
 - b. To impose a rate in the dollar which will result in it being more than twice the lowest differential general rate imposed for UV Mining, UV Mining Vacant and UV Pastoral rating categories, in accordance with section 6.33(3) of the *Local Government Act 1995*.

FORESHADOWED MOTION

Cr G Taylor foreshadows a motion that the item 13.1.5 2015/16 Budget – Differential General Rates and Minimum Payments – Consideration of Public Submissions be deferred.

MOTION

Cr K Wright moves to adjourn the meeting to seek clarification on who can speak in the order of debate.

COUNCIL DECISION

Minute No.10978

Moved: Cr K Wright

Seconded: Cr D Spackman

That Council adjourn the meeting to seek clarification on who can speak in the order of debate.

Lost 4/5

For: Cr K Wright, Cr D Spackman, Cr G King, Cr D Learbuch

Against: Cr J Moulden, Cr R Dessert, Cr B Robinson, Cr S Cooke, Cr G Taylor

The motion from Cr B Robinson is considered:

COUNCIL DECISION

Minute No.10979

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council:

- 1. Note the five (5) formal submissions received along with the late submissions regarding the advertised 2015/16 Rating Model and Strategic Rating Policy and thanks the community for their input;**
- 2. After considering the submissions, reduces the proposed rate in the dollar increase from 6.9% to 4.2% (a reduction of 2.7%) for the applicable rating categories being GRV Residential, GRV Other Vacant, UV Rural Residential, and UV Other ensuring that this is factored into the associated multiplier relating to the GRV Commercial and GRV Industrial rating categories;**
- 3. After considering the submissions, reduces the proposed rate in the dollar increase from 9% to 7.03% (a reduction of 2.7%) for the applicable rating categories being UV Commercial/Industrial, UV Rural Agriculture 1, UV Rural Agriculture 2 and UV Mining;**
- 4. After considering the submissions, reduces the proposed rate in the dollar increase from 82% to 79.3% (a reduction of 2.7%) for UV Pastoral rating category;**
- 5. Endorse the 2015/16 Rating Model as follows, with the intention of striking the rates as part of the 2015/16 Budget adoption, subject to receiving Ministerial approval where required by legislation:**

Rating Category	Total Properties	Total Rateable Value of Properties	Proposed Minimum Payment	Proposed Rate in the Dollar	% of Properties on Minimum Payments	Proposed Budget Rates Revenue 2015/16
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GRV - Other Vacant	144	993,680	\$ 1,077	13.8518 cents	77.78%	\$ 197,183
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UV - Rural Ag 2	109	57,360,000	\$ 1,077	0.6719 cents	0.00%	\$ 385,402
UV - Mining	68	1,637,197	\$ 1,077	27.5246 cents	45.59%	\$ 472,184
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UV - Other	2	526,000	\$ 1,077	0.6258 cents	0%	\$ 3,292
TOTALS	2,719	278,407,744				\$9,936,580
					Concessions	-\$ 46,491
						\$9,890,089

6. Requests the CEO, or their delegate, to modify the Strategic Rating Policy accordingly;
7. Requests the CEO, or their delegate, to investigate the quantum available to the Shire to divert from the airport as a return on investment to ratepayers in order to assist with the impact of the approximate \$245,000 that will no longer be raised in rating revenue;
8. Requests the CEO, or their delegate, to ensure that any return on investment is incorporated into the results of the 2015/16 Mid-Year Budget Review;

9. Requests the CEO, or their delegate to seek approval from the Minister for Local Government and Communities to approve the Shire of Wyndham East Kimberley's application for the above 2015/16 Rating Model as it is proposed:

- a. **To impose minimum payments for vacant land which will result in more than 50% of the properties in the GRV Other Vacant and UV Mining Vacant rating categories subject to minimum payments in accordance with section 6.35(5) of the *Local Government Act 1995*; and**
- b. **To impose a rate in the dollar which will result in it being more than twice the lowest differential general rate imposed for UV Mining, UV Mining Vacant and UV Pastoral rating categories, in accordance with section 6.33(3) of the *Local Government Act 1995*.**

Lost 3/6

For: Cr B Robinson, Cr D Learbuch, Cr J Moulden

**Against: Cr R Dessert, Cr K Wright, Cr D Spackman, Cr S Cooke, Cr G Taylor,
Cr G King**

The foreshadowed motion from Cr G Taylor is considered:

AMENDMENT

Cr K Wright moves an amendment to the foreshadowed motion that Council defers the item 13.1.5 2015/16 Budget – Differential General Rates and Minimum Payments – Consideration of Public Submissions to a workshop/s.

COUNCIL DECISION

Minute No.10980

Moved: Cr K Wright

Seconded: Cr D Spackman

That the foreshadowed motion be amended to: That Council defers the item 13.1.5 2015/16 Budget – Differential General Rates and Minimum Payments – Consideration of Public Submissions to a workshop/s.

Carried Unanimously 9/0

The amended motion is considered:

COUNCIL DECISION

Minute No.10981

Moved: Cr K Wright

Seconded: Cr S Cooke

That Council defers the item 13.1.5 2015/16 Budget – Differential General Rates and Minimum Payments – Consideration of Public Submissions to a workshop/s.

Carried Unanimously 9/0

Reason: Deferred in order for Council to review the expenditure side of the budget.

Natalie Octoman

From: hunter.as@westnet.com.au
Sent: Wednesday, 20 May 2015 10:14 AM
To: Mail
Subject: I-28727 - Attn CEO - Differential rates

Follow Up Flag: Follow up
Flag Status: Flagged

To the CEO SWEK. The recent council proposal to impose differential rates on rates payers yet again I believe is another unsustainable and detrimental move by the shire to an already over priced and extremely expensive town to live in.

I have lived here for nearly 20 years and my wife and I have had our own house here for the past 11 years. The increase in rates over the past few years has been astounding and unaffordable to those of us who own our own homes in Kununurra. In recent years we have had many friends leave Kununurra purely because of the expense of living here and four of those families have sold or have their homes for up for sale to move somewhere more affordable to live. The other side of the rates increase is the extra cost to local businesses which at the end of the day have no choice but to pass on the extra cost onto customers. This in recent years has resulted in many of us buying things on line or having to order them from city centres purely due the cost of identical items whilst available in town, often being around double the cost of city prices. Whilst most people are happy to pay a bit more and expect a higher cost in regional area's lately prices in local businesses have become extreme. When asking about price often the first thing many business owners say is do you want to see my rates bill. Many relatives of mine and my wife and family friends who have passed through Kununurra as tourists in recent years have been appalled at the costs of everything across the board in Kununurra and all have commented about the bad name Kununurra has for being an extremely expensive place to visit.

I am very aware of the shire's current financial trouble, but this debt can not be expected to be paid for by those of us who live here. However it is not our doing that the shire is in this position yet we are expected to foot the bill for it. I personally would like to see those people who live in their own homes in the shire be cut a break on rates increase and see those who own investment properties in the shire be given an increase as their properties are making them money. It would also be an incentive for people to live here instead of moving anywhere else that will undoubtedly have cheaper rates and cost of living. I have family in Broome and their house in Broome is worth almost twice that of ours and yet their rates are less than ours of last year.

My wife and I are on a single income with a 2 year old and we have friends that still live here in the same position and I feel the rates increasing yet again is going to make living here unaffordable for many of us. We were barely able to pay last years expensive rates bill. The other side of the rates increase is the flow on impact to those renting in the shire as no doubt the extra cost will be passed on to renters in an already struggling rental market with many homes vacant and falling property value. This coupled with large numbers of people leaving town over the past 2 -3 years has seen the town's growth stall. The rates the shire has been charging home owners and businesses I believe is a major factor in the negative growth in Kununurra and can not be allowed to continue down this path if the town is to grow.

At present there seems to be nothing that is encouraging people to move here, and just higher and higher cost of living doing nothing but driving more people out of town

I ask of you please, please do not impose a differential rates increase on us again this year.

Regards

Adam Hunter

Kununurra
Phone 91 681 456



12 June 2015

Adam Hunter
 PO Box 1734
 KUNUNURRA WA 6743

hunter.as@westnet.com.au

Dear Mr Hunter

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your email of 20 May 2015 on the above subject. Your email has been treated as a submission in accordance with section 6.36 of the *Local Government Act 1995* and will be considered by the Council at the next Ordinary Meeting on 23 June 2015. In the meantime, I am happy to provide a response to the issues you have raised.

As outlined in the Council's proposed Strategic Rating Policy, "the Council has a diverse mix of geographically located and land use properties. The Council therefore applies differential rating to ensure greater equity and contribution from rates according to land use, zoning or a combination of these." It should be noted that the Shire has imposed differential rates for many years now, albeit utilising different rating categories.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

At the Special Meeting of Council on 12 May 2015, which was advertised as being open to all members of the public, the proposed differential general rates and minimum payments for 2015/16 were considered by the Council, along with the proposed Strategic Rating Policy. At this meeting, the proposed differential general rates and minimum payments were endorsed for advertising along with the Strategic Rating Policy which also outlines the objects of and reasons for differential rates making it clear to the community as to why each differential rate is applied.

Your email refers to the Shire's current financial situation and the cost of residing in Kununurra. The 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise.

You suggested that the Shire consider increasing the rates particularly associated with residential investors, and to not increase them for those who live in their own homes. The matter of reduced rates for owner-occupiers has not been an option allowable for the Council to consider since 2005. Regulation 69A of the *Local Government (Financial Management) Regulations 1996*, states the following:

69A. When concession under Act s. 6.47 can not be granted

A local government is not to exercise a power to grant a concession in relation to a rate or service charge under section 6.47 of the Act in circumstances where the concession is based on whether or not, or the extent to which, the land in respect of which the rate or service charge is imposed is occupied by a person who owns the land.

Accordingly, owner-occupiers cannot be considered differently to all other residential land owners when determining rating levels.

The Council will consider all submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

In accordance with the requirements of section 6.36 of the *Local Government Act 1995*, please note that a copy of your letter, and this response, will not only be provided to each Councillor for consideration but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer

KUNUNURRA

20 COOLIBAH DRIVE

WYNDHAM

KOOLAIMA STREET

LOCATIONS
HOURS

SWEK

8:00AM - 4:00PM MON-FRI

03 JUN 2015

CHRISTOPHER LONGSON
 P.O. Box 111
 WYNDHAM W.A 6740
 1 JUNE 2015

TO C.E.O., SHIRE WYNDHAM EAST KIMBERLEY
 KUNUNURRA, P.O. BOX 614
 W.A 6743.

RE - SUBMISSION ON PROPOSED RATE INCREASE 2015/16

DEAR SIR,

THE PROPOSED INCREASES TO RATES & VARIOUS OTHER FEES & CHARGES SHOULD **NOT** BE IMPOSED, INSTEAD SHIRE SHOULD **SPEND LESS**

A FEW SUGGESTIONS

- 1 ALL CASH GRANTS TO SPORTS/ARTS/CULTURAL/SOCIAL/ENTERTAINMENT CLUBS - EVENTS SHOULD CEASE. IN KIND ASSISTANCE ONLY
- 2 RATE EXEMPTIONS FOR RELIGIOUS PREMISES SHOULD CEASE. RELIGION AT BEST IS ONLY ENTERTAINMENT - NOT CHARITY
- 3 ENFORCE EXISTING ANTI-LITTERING LAWS/FINES - FAILING THAT ABOLISH THE RANGER POSITIONS & VEHICLES INVOLVED. THIS WON'T REDUCE LITTER BUT WILL MAKE IT LESS EXPENSIVE.
- 4 REDUCE BY 50% THE NUMBER OF LIGHT VEHICLES - KEEP THE REST LONGER - THEN WHEN EVENTUALLY BE-PLACED DO NOT BUY 4WD AS THESE CARS - UTES RUN ALMOST EXCLUSIVELY ON TOWN ROADS
- 5 ELIMINATE USE OF EXPENSIVE OUTSIDE CONSULTANTS - ISN'T THIS THE FUNCTION OF SHIRE'S "EXECUTIVE MANAGEMENT TEAM"
- 6 USE TELECONFERENCING FOR OUT OF AREA MEETINGS INSTEAD OF INCURRING TRAVEL/ACCOMODATION COSTS FOR COUNCILLORS/STAFF.
- 7 CAPITAL GRANTS FROM STATE/FED. GOV. SHOULD BE REFUSED IF THERE IS NO INBUILT-ONGOING MAINTINANCE COMPONENT - SAY 10 YRS
- 8 REDUCE EXESIVE AMOUNT OF OVERBURDEN USED (AT LEAST AT THE WYNDHAM TIP) TO COVER A RELITAVLY SMALL AMOUNT OF RUBISH.

2

SUBMISSION - SWEK RATE INCREASE 2015/16 (CONT)

- 9/ TURN OFF STREET LIGHTING AT SAY 10 PM - THIS WILL NOT ONLY SAVE MONEY BUT ALSO DISCOURAGE NON-CONTRIBUTING CRIMINAL ELEMENTS HANGING AROUND & CAUSING DAMAGE.
- 10/ COUNCILLORS TO BE PAID ZERO EXPENSES AS THEY HAVE INSTIGATED/OVERSEEN/SIGNED OFF ON THE CONTINUAL OVERSPEND
- 11/ PAY SWEK "EXECUTIVE MANAGEMENT TEAM" APPROPRIATELY i.e. A LOT LESS THAN AT PRESENT, AS THEY TOO HAVE "MANAGED" THIS OVERSPEND.
- 12/ IF EITHER COUNCILLORS OR "EXECUTIVE MANAGEMENT TEAM" FEEL THEY ARE UNABLE, OR NOT CAPABLE OF APPROPRIATE ACTION TO RECTIFY THIS CONTINUED OVERSPEND, THEN THEY SHOULD ALL RESIGN. THIS WILL ALLOW THE STATE GOV. TO APPOINT A BENIGN DICTATOR (ADMINISTRATOR) TO SORT OUT THE SITUATION ASAP

AS JUST ONE OF MANY LONGER SUFFERING RATE PAYERS I SUBMIT THE ABOVE BUT WITH LITTLE HOPE & EVEN LESS EXPECTATION OF SUBSTANTIVE CHANGE.

YOURS FAITHFULLY

C Longson

CHRISTOPHER LONGSON



Our Ref: O-22291
 Cross Ref: FM.05.11 / I-28935
 Enquiries: Natalie Octoman

12 June 2015

Christopher Longson
 PO Box 111
 WYNDHAM WA 6740

Dear Mr Longson

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 1 June 2015 on the above subject. Your email has been treated as a submission in accordance with section 6.36 of the *Local Government Act 1995* and will be considered by the Council at the next Ordinary Meeting on 23 June 2015. In the meantime, I am happy to provide a response to the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

At the Special Meeting of Council on 12 May 2015, which was advertised as being open to all members of the public, the proposed differential general rates and minimum payments for 2015/16 were considered by the Council, along with the proposed Strategic Rating Policy. At this meeting, the proposed differential general rates and minimum payments were endorsed for advertising along with the Strategic Rating Policy which also outlines the objects of and reasons for differential rates making it clear to the community as to why each differential rate is applied.

Your correspondence suggests that the Shire should spend less and provides some suggestions as to what may be considered by the Council.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise.

You've mentioned that the Council should cease providing rate exemptions for religious premises as they should not be considered a charity. Council does not consider religious premises to be charitable, and must provide exemptions as it is not considered to be rateable land in accordance with section 6.26(2)(d) of the *Local Government Act 1995* which states:

6.26. Rateable land

(2) The following land is not rateable land —

(d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;

Teleconferencing facilities are highly utilised by the Shire where possible, and this has seen a reduction in costs associated with flights and accommodation.

Both the Kununurra and Wyndham landfills are licenced by the Department of Environment Regulation who mandate the amount of cover that must be applied in order for the Shire to comply with its licence conditions. The Council cannot consider reducing the amount of cover used and risk non-compliance with the licence conditions.

Street lighting was reviewed during the 2014/15 budget deliberations to determine if the lights could be turned off at midnight in residential areas generating savings for the Shire. Unfortunately without funding for an upgrade, the current street lights do not operate this way. The lights are not on a timing circuit but are controlled by lux (ie. automated sense of light/darkness). The streetlights effectively switch on at a certain level of darkness and switch off again at a particular level of daylight, therefore the Shire pays for street lighting at a fixed rate per pole based on the wattage and type of globe.

The logo features a dark blue horizontal bar with white text. On the left, it reads 'KUNUNURRA' and '20 COOLIBAH DRIVE'. On the right, it reads 'WYNDHAM' and 'KOOLAMA STREET'. To the far right, the letters 'SWEK' are prominently displayed in a large, white, sans-serif font. Below 'SWEK', the text 'LOCATIONS' and 'HOURS' is written in a smaller font, followed by '8:00AM - 4:00PM, MON-FRI'.

The Council will consider all submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

In accordance with the requirements of section 6.36 of the *Local Government Act 1995*, please note that a copy of your letter, and this response, will not only be provided to each Councillor for consideration but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer

Natalie Octoman

From: Melissa Moore <kim.moore7@bigpond.com>
Sent: Wednesday, 3 June 2015 5:46 PM
To: Mail
Subject: I-28878 - proposed rates increase

CEO SWEK
RE: Rates Increase

Dear Mr Askew, We are writing to voice our displeasure in the Shire of Wyndham East Kimberleys recent announcement of the proposal to increase rates again this financial year. We have lived in Kununurra for 14 years and have been a rate payers since 2007 when we built our family home in Lakeside. Since this time the rates on our property have increased substantially every year including last year with an increase of \$450, an increase of about 12%. We are not naive enough to think that rates are never going to increase and we have lived in Kununurra long enough to understand the costs of living here but these continued increases seem excessive to us. We understand that the shire has financial commitments but so do we and from where we sit it would seem the shire has taken an easy and maybe lazy option of increasing rates to try and resolve financial issues. We are very disappointed at the shires approach at continuing high rate increases again this year.

Regards
Kim and Melissa Moore



Our Ref: O-22292
 Cross Ref: FM.05.11 / I-28878
 Enquiries: Natalie Octoman

12 June 2015

Kim and Melissa Moore
 PO Box 1896
 KUNUNURRA WA 6743

Dear Mr and Mrs Moore

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 3 June 2015 on the above subject. Your email has been treated as a submission in accordance with section 6.36 of the *Local Government Act 1995* and will be considered by the Council at the next Ordinary Meeting on 23 June 2015. In the meantime, I am happy to provide a response to the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

At the Special Meeting of Council on 12 May 2015, which was advertised as being open to all members of the public, the proposed differential general rates and minimum payments for 2015/16 were considered by the Council, along with the proposed Strategic Rating Policy. At this meeting, the proposed differential general rates and minimum payments were endorsed for advertising along with the Strategic Rating Policy which also outlines the objects of and reasons for differential rates making it clear to the community as to why each differential rate is applied.

Your correspondence alleges that the Shire has taken an easy and maybe a lazy option of increasing rates to try and resolve financial issues. Below I have attempted to outline why this is not the case and all avenues are being reviewed.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise.

The Council will consider all submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

In accordance with the requirements of section 6.36 of the *Local Government Act 1995*, please note that a copy of your letter, and this response, will not only be provided to each Councillor for consideration but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer

Mr. Carl Askew,
CEO
SWEK
P.O. Box 614
KUNUNURRA W.A. 6743

Dear Sir,

SUBMISSION REGARDING RATE INCREASE FOR SWEK 2015-2016

I submit that an increase above CPI is grossly unfair to ratepayers, considering that pay increases above CPI are not granted and the ability of people to keep paying more for everything is limited. It is not valid to say that it costs more up here to do the same work, as the base has already been established years ago, and the percentage increase is on that base.

Council should look at economizing on unnecessary items such as consultants; councillors and council staff should be able to make decisions without resorting to outside consultants all the time, particularly when very often the consultant doesn't have any local knowledge. An example of this is having a consultant provide a valuation for renting the hangar at Wyndham Airport, any councillor should be able to deal with that without going to an external consultant.

Councillors should also look at reducing the amount that they pay themselves, if they are comparing themselves to Company directors, then when things aren't going well the company directors take less, the same goes for councillors. Both towns are looking neglected, particularly Wyndham, and that is the responsibility of the councillors who seem to be more interested in the money they can make rather than what they can do for their community.

Council should be looking at dealing with the basic requirements of the Shire, before spending money on "nice things to have", i.e. maintain and improve existing assets before acquiring more. The Lions Park in Wyndham needs urgent and proper attention, particularly considering that the Shire didn't have to pay to put the park in at the beginning. Letting it go to rack and ruin is an insult to the Lions Club and not an encouragement for any non-profit body to do anything around town. Similarly the "Townscape" in the 3 MI at Wyndham is looking dreadful as the lawn hasn't been watered properly for eighteen months.

Look at the overall staffing structure, do we really need a full time town planner, or could we share one with Halls Creek? Don't save money on staff by cutting out the people who actually do keep the towns clean and tidy, but look at some of the office staff and the size of the departments within the Shire Office. How many "middle managers" are there, and how many assistants? How come the staff in Kununurra don't seem to know that Rob Drew left Wyndham in January this year, or that the Shire owns Anton's Landing in Wyndham?

It is not justifiable to increase rates above CPI when the services are downgraded, when was the last time a footpath or kerbing was done in either town. It is notable that council recently spent \$700,000 on asphalt in Kununurra, but the Wyndham cycleways and roads haven't been maintained for years. I appreciate that the Shire didn't have to outlay the \$700,000 from revenue, but it could have used the service more effectively.

Yours faithfully,

Maxine Middap
1 Cole Ave Wyndham W.A. 6740



Our Ref: O-22293
 Cross Ref: FM.05.11 / I-29084
 Enquiries: **Natalie Octoman**

12 June 2015

Maxine Middap
 1 Cole Avenue
 WYNDHAM WA 6740

maxine.middap@police.wa.gov.au

Dear Ms Middap

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 10 June 2015 on the above subject. Your email has been treated as a submission in accordance with section 6.36 of the *Local Government Act 1995* and will be considered by the Council at the next Ordinary Meeting on 23 June 2015. In the meantime, I am happy to provide a response to the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

At the Special Meeting of Council on 12 May 2015, which was advertised as being open to all members of the public, the proposed differential general rates and minimum payments for 2015/16 were considered by the Council, along with the proposed Strategic Rating Policy. At this meeting, the proposed differential general rates and minimum payments were endorsed for advertising along with the Strategic Rating Policy which also outlines the objects of and reasons for differential rates making it clear to the community as to why each differential rate is applied.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation with each Directorate being affected; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise at levels well above CPI.

The Council will consider all submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

In accordance with the requirements of section 6.36 of the *Local Government Act 1995*, please note that a copy of your letter, and this response, will not only be provided to each Councillor for consideration but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer

Silke Becke
PO Box 2132
85 Egret Close
Kununurra WA 6743

Attn. CEO
Shire of Wyndham East Kimberley
Kununurra 6743

10/6/2015

Re: 2015/16 proposed differential Rates and your response to my letter 17/5/2015

Dear Carl Askew,

Thank you for taking the time to respond to my letter regarding the Shire meeting on 12/5/15.

I obviously was badly prepared for it and had no idea of the protocol of the meeting. I'll do better next time so that I know what to expect.

I also understand now that this meeting was just about the approval for advertising of the proposed Rates and not a final decision on it. Though, I don't recall in my time in Kununurra the Rates ever having been adjusted after advertising (maybe no resident came up with a good enough reason to warrant this?)

The documents you attached to your response provided some interesting reading and I can see that a lot of thought has gone into the Rates Policy. Most of it sounds reasonable to me, one of the exceptions being the thinking behind the "Property Wealth Tax" and the "Capacity to Pay". There is too much room for 'at will' judgement by the Shire over who is seen as being 'rich enough' to contribute a higher Rate percentage. Just because someone decides to put their money into property rather than spending it on other investment forms or leisure is really no measurement at all to determine a fair Rate percentage. I believe this criterion is worth putting under scrutiny. The principles of "User Benefit" or the cost of servicing a particular area are much fairer and not attached to personal judgement.

I understand that the aim of the rate calculation has to be to fill the funding gap left by other sources, in order to cover total cost of Shire operation. Would this mean that in a year where the Shire manages to attract higher State and Federal funding the property rates might go down? Or is this too theoretical? Also, does the Shire receive rates for all the Housing commission properties (I noticed that only 10 properties are exempt.)

Of course I'm not impressed with yet again another 9% increase of in our Rate category (Rural AG2).

Even more so not since only last year we had to wear a 10.8% increase; and this still wasn't enough to prevent a Deficit situation this year.

Which brings me to the topic of Expenditure Control.

It is one thing to increase revenue and to expect the residents to carry part of the deficit burden. But this can't go without at the same time to take measures that will preferably reduce expenditure and prevent a further blow-out.

This really is a discussion I would have liked to have heard.

I believe a disclosure of proposed Cost Control measures would be beneficial for Community Engagement purposes and to achieve a better understanding within the community of why the rates have to increase at such high percentage, and what the Shire within its own operation is willing to undertake to eliminate the Deficit position (or maybe even to achieve a profit).

How can it possibly be that at the half year mark the Shire ended up with about a 1/3 higher deficit result than already anticipated (as if it is not already bad enough to plan for a Deficit Budget)? (This is as per article in Kimberley Echo some weeks back.) And this was the result even after terminating a number of staff earlier in this financial year, which should've reflected reduced cost (again, Kimberley Echo article mentioned 21.9 planned terminations. But I believe the actual number was less.) I suppose there might have been a possible pay-out to the past CEO. And then again that shouldn't have been necessary as he resigned on his own accord as far as I know.

To see a budgeted salary increase of 3.2% is definitely not a good look at a time when the Shire is operating on a Loss and residents are expected to make up for it.

I most certainly don't support this, even if this percentage is not much above normal CPI. It's not unusual for employees to skip some of years before the next pay-rise (though I must admit I don't know what's normal in the world of government employees).

This might be a bit petty. But it's still happening that you can see 4 or 5 Shire workers at a site arriving in 3 or 4 cars, watching one person digging a hole (or whatever the job might be). Really not a good image. It sends the wrong message across and definitely doesn't give the impression of Cost Control and Efficiency.

In regards to the statement on page 14, that doing business in the Kimberley is 70% more costly than elsewhere, I can easily agree with this. It is quite obvious that in particular trade businesses up here charge double (or close to it) of what their counter parts down south charge.

It is a practice I believe we shouldn't really support or encourage if we can help it.

As a private individual you usually have to pay these inflated prices, or simply go without. But I would think the Shire has got a bit of buying power, since it would be one of the main contract providers in town. How about using this as leverage to achieve more reasonable pricing?

This is maybe already happening, and it's probably easier said than done, especially when there're plenty of departments in town that just pay the price. And I'm sure I have information gaps and some of my conclusions might be wrong. It's just another thought. Activity level in town has slowed down a lot. This should be a good time to get businesses to down-adjust their pricing.

The Asset Management Gap is a big concern. I suppose this means that the Shire hasn't provided for Asset replacements since decades and it's now catching up with us?

I trust the annual amount of \$31k is an 'over and above amount' to overcome this gap? (Otherwise it would take about 188 years to fill it at this rate.)

Speaking of assets, I don't support the idea of spending money on a new swimming pool for Kununurra. It's amazing and beautifully done as it is (and again, has been upgraded already). Okay, the amenities and the leisure centre are very dated and possibly could do with a face-lift. Also, to have a path to the pool without steps would be a good idea to provide for those who are wheelchair bound or need a walker to move around with. But I believe this is as far as this development needs to go. While I'm at it, what is happening with the old Shire Building? It just got extended and refurbished, only for the Shire to move out a few years later. What a shame. A case of bad planning? I hope it is just a nasty rumour that there is now the consideration to demolish it.

You see, when I think of these sorts of things I'm really very concerned that even with another Rates increase it again won't make ends meet... Unless the Shire manages to get their expenditure and management under control.

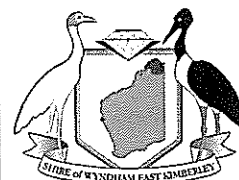
Talking about a "Balanced Budget" is such a lovely term, which of course suggests that income meets expenditure. But as also Mr Moulden pointed out in that meeting, no one will guarantee for it.

So, the short of all this is: the dimension of 2015/16 Rates increase is ugly. But if this, together with a serious effort by the Shire to reduce cost (and with it improve its image) will achieve a break-even or profitable outcome, I reluctantly will put up with it for this for this year (as if I have a choice) – and hope for a smaller rate increase in the next years.

Kind regards,



PS: Is there a document that discloses expenditure control measures (beside the budget) by the Shire going forward? And if so, are these monitored and documented?



Our Ref: O-22303
 Cross Ref: FM.05.11 / 1-29147
 Enquiries: Natalie Octoman

15 June 2015

Silke Becke
 PO Box 2132
 KUNUNURRA WA 6743

Dear Ms Becke

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 10 June 2015 on the above subject. Your letter has been treated as a submission in accordance with section 6.36 of the *Local Government Act 1995* and will be considered by the Council at the next Ordinary Meeting on 23 June 2015. In the meantime, I am happy to provide a response to some of the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

You asked whether rates may reduce if the Shire manages to attract higher State and Federal funding. Generally State and Federal funding is utilised for infrastructure-related programs such as roads, facilities and buildings, and will not result in a reduction in rates if additional funding is sourced. This is as a result of the additional maintenance or operational costs associated with these types of infrastructure, which are the responsibility of the Shire. They are not a factor that the State or Federal government will consider funding generally.

Your correspondence asked whether the Housing commission properties are rated and I have assumed that you are referring to properties owned by the Department of Housing. More generally, land is deemed to be non-rateable if it meets the conditions outlined in section 6.26(2) of the *Local Government Act 1995*. In saying that, the properties owned by the Department of Housing are generally rateable.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation with each Directorate being affected; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise at levels well above CPI. For further details in relation to these measures, the minutes of the 2 September 2014 Special Meeting of Council would be a useful reference.

The Mid-Year Budget Review process is the one whereby all of the measures adopted within the 2014/15 Budget are monitored and reported to the Council. This item was presented to the Council at its 28 April 2015 Ordinary Meeting and is available on the Shire's website. Overall, while the results increased the current budget deficit from \$356,592 to \$476,353, this was mainly attributed to the sale of the Boobialla property not progressing as planned (proceeds anticipated of \$365,000). If this had, then the deficit would have been reduced to approximately \$111,353 (\$476,353 less \$365,000). This demonstrates that there has been an additional \$245,239 in savings anticipated in addition to those put in place in the original budget. The item states that "this still remains a positive outcome for the Shire and demonstrates that the strategies adopted are being implemented, and placing the Shire in a good position to recover from the initial budget deficit adopted".

The Council will consider all submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

In accordance with the requirements of section 6.36 of the *Local Government Act 1995*, please note that a copy of your letter, and this response, will not only be provided to each Councillor for consideration but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer



The Kununurra Chamber of Commerce and Industry

PO Box 171 Kununurra WA 6743

Ph: (08) 91 682 217 Fax: (08) 91 682 241

Email: executive@kcci.com.au

www.kcci.com.au

Carl Askew
Chief Executive Officer
Shire Wyndham East Kimberley
PO Box 614
KUNUNURRA WA 6743

12th June 2015

Proposal to Impose Differential Rates and Minimum Payments for 2015/2016

Dear Carl and Elected Members,

The Kununurra Chamber Of Commerce & Industry oppose the advertised rate rise. The SWEK community were impacted by a rate increase of between 6-10% in 2014/15, and the proposed 2015/16 increase will mean an increase of up to 9%, and the third significant rate rise over the CPI for 3 consecutive years.

Nationally and particularly in Western Australia there is currently an economic down turn that is reflected in lost jobs and poor returns for businesses of all sizes.

Kununurra and Wyndham residents and business community currently face many challenges with the completion of the Ord Stage II works, and the closure of the KMG mine. During the last 2 years Argyle Diamonds Ltd has significantly reduced their work force and are currently planning for mine closure 2021.

To add to these pressures, current data collected from members shows a significant down turn in commercial and retail profits, and tourism for the 2015 season figures are well below 2014. An example of this is the attendance and ticket sales for the events during the 2015 Ord Valley Muster,

and our caravan parks which would normally be full this time of year are reporting much lower occupancy rates.

The Shire has made cuts to services and departments, which has impacted on the community, with the community having to step into roles that would normally be the responsibility of Shire.

The Shire currently has no Economic Development or Sports & Recreation Officers. These gaps have had to be picked up by community volunteers and not for profit organisations to ensure a standard of lifestyle and leisure, and economic growth. Not only are the community and businesses hit with rising rates, we are also asked to fill the roles vacated by Shire due to a lack of funds.

Our business community and residents support local charities, sporting clubs, not for profit organisations and local government agencies, i.e. schools, Emergency Services and St John Ambulance both financially and with volunteers.

The Community is also suffering from a lack of funds and to impose a further financial burden is not fair, not sustainable and will be detrimental to maintaining our population, businesses and industries.

I would like to note that the business community and residents also faces and absorbs the same '70% more costly to do business in the Kimberley' as the Shire and to expect a sector or sectors of the community to support the added expense for the Shire, while absorbing the same added expense is unjustifiable.

The Community engagement to date has been with

- Elected Members during a Budget Forum after the 24th March Ordinary Council Meeting, and again at the 14th April Budget Forum;
- Officers from Landgate
- Officers from the Department of Local Government and Communities
- McLeods Barristers and Solicitors.

Where is the community engagement with the sector that will have the rates imposed? Those so far consulted are those who have nothing to lose, are responsible for the proposed rate increases or have something to gain.

The economic development of the East Kimberley is pivotal to our ability to attract and retain a critical mass of population, to not only grow our economy, but to sustain our current population, businesses and industries. Yet this is the sector that will bear the burden and in many cases the burden will be too much to bear. The East Kimberley cannot afford to lose residents, investors, businesses or industries and imposing the rate raise will be short sighted and detrimental to our community and region.

The Shire Wyndham East Kimberley has a disproportionately high percentage of entities that are exempt or not required to pay rates i.e. Government buildings and infrastructure asset footprint, and Indigenous Corporations and Communities, multiple this by the land/sq. metre rates dollar value that these entities cover, means paying rate payers are required to prop up non-paying land

owners. These no- paying entities still benefit from the contribution of those who pay the ever increasing rates.

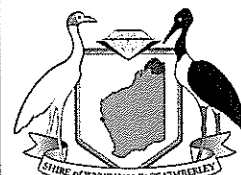
It is the opinion of many community members that the Shire is unproductive and inefficient, and that is where costs could be made to get the budget back into shape. With the last staff cuts, the cuts were made in the wrong places, services were cut or removed and yet we still have not improved the budget or financial position of the Shire.

Please take these points into consideration when debating and voting on the rates as imposing the proposed rates will be detrimental to our sustainability as a community and town.

The Chamber is only too happy to interact and work with the Shire to assist in bringing the budget back into surplus. Should you wish to clarify any of the information above please do not hesitate to contact me.

Yours sincerely,

Jill Williams
President
Kununurra Chamber of Commerce

Our Ref: O-22315
Cross Ref: FM.05.11 / I-29198
Enquiries: Natalie Octoman

17 June 2015

Jill Williams
President, Kununurra Chamber of Commerce and Industry
PO Box 171
KUNUNURRA WA 6743

Dear Ms Williams

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 12 June 2015 on the above subject, sent by yourself on 14 June 2015. As your correspondence was not received until after the closing date for public submissions, it has not been treated as a formal submission however it will be presented to the Council at the next Ordinary Meeting on 23 June 2015 for their information. In the meantime, I am happy to provide a response to some of the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy.

The East Kimberley has seen the benefits of economic development in the past where there have been clear decisions of the State Government in particular, to assist in improving critical infrastructure and service provision to the community, which is critical in stimulating economic development.

The 2014/15 Budget for the Shire was considered to be one of the most difficult for many years given the period of significant economic development had effectively concluded. This is not dissimilar to the Shire of Broome nor the Pilbara region that were in a similar situation during 2013/14 after a similar period of growth.

You have asked where is the community engagement with the sector that will have the rates imposed, and I need to point out that this public submission process is what is utilised by the Shire to seek feedback from the community in relation to the proposed rates for an upcoming year. The public submissions from the community will be provided to the Council to consider when it makes the decision regarding the rates model. It should be noted that from the 2,719 rateable properties within the Shire, there were just five (5) formal submissions prior to the closing date.

I agree that the Shire does have a large number of non-rateable or exempt properties and these property owners do impact on the Shire's facilities, services and infrastructure. However, without significant changes in the *Local Government Act 1995*, the Council cannot rate these properties.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation with each Directorate being affected; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise at levels well above CPI. For further details in relation to these measures, the minutes of the 2 September 2014 Special Meeting of Council would be a useful reference.

You have stated that the cuts made were in the wrong places; services were cut or removed and yet the Shire has not improved its budget or financial position. I do not agree with this sweeping statement, and the outcomes from the Mid-Year Budget Review demonstrate that the Shire has improved its position throughout this year alone.

The Mid-Year Budget Review process is the one whereby all of the measures adopted within the 2014/15 Budget are monitored and reported to the Council. This item was presented to the Council at its 28 April 2015 Ordinary Meeting and is available on the Shire's website. Overall, while the results increased the current budget deficit from \$356,592 to \$476,353, this was mainly attributed to the sale of the Boobialla property not progressing as planned (proceeds anticipated of \$365,000). If this had, then the deficit would have been reduced to approximately \$111,353 (\$476,353 less \$365,000). This demonstrates that there has been an additional \$245,239 in savings anticipated in addition to those put in place in the original budget. The item states that "this still remains a positive outcome for the Shire and demonstrates that the strategies adopted are being implemented, and placing the Shire in a good position to recover from the initial budget deficit adopted".

The Council will consider all formal submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

Natalie Octoman

From: Carl Askew
Sent: Wednesday, 17 June 2015 8:28 AM
To: Natalie Octoman
Subject: I-29228 - FW: Rates objection x 9

SynergySoft: I-29228

From: Mark Northover [mailto:mark.northover@icloud.com]
Sent: Wednesday, 17 June 2015 7:05 AM
To: ceo
Cc: Carl Askew
Subject: Rates objection x 9

Good Morning Mr Askew,

I have been working remotely and trust that you will accept the following 9 notifications of objections to adopting the increases to differential ratings.

Please multiply this objection by nine (9) as it represents 9 rated properties, 3 individuals (MR Northover, SM Rushby and ML Northover-Rhodes) and 4 entities (Martinjinni Pty Ltd, Peak Environmental, Goldengate Nominees and Ord River Contracting)

The following are unconscionable decisions made by a poorly informed team to increase our rates.

Objection to the introduction of differential rates on rural residential, mining, agriculture, and residential properties we own.

MORE REVENUE DOES NOT RESULT IN BETTER SERVICES.

Rates are have been compromised from 2010 to the current date with the introduction and acceptance by the Minister of the differential rating system to meet the ongoing budget proposals.

Our 2015/16 proposed increase in rates is partially funding a unnecessary WALGA partnership with SWEK.

As a ratepayer, overall services have not improved or changed since 1990.

SEVEN AREAS OF CONCERN.

Affordability - CPI of 2.9% - consistency of communities - effective Senoir management appointments - staffing levels - informed councillors collaboration - budget clarity.

SWEK's dependency to Differential rating has exceeded 5 years under section 52A regulation 2 (act s 6.33) for mining differential, yet despite rate requests for over the top increases, the current financial position has deteriorated.

A ratepayer request for the probity audit is confirmation of action demanded of councillors and the DLGC.

It was 2014, legal action COMMENCED and is currently increasing against SWEKS own ratepayers costing \$100,000's dollars to engage lawyers, despite professional advice of a no win situation.

The landfill site has significant improvement with refuse burning compliance, however encouraged refuse burning and dumping is rampant on farms and rural land.

It was 2014 and contractors were covering up medical and asbestos products, payments exceeding guidelines at enormous ongoing financial and on going community AGNST.

Statuary Senior officers reporting to council have confirmed with a official apologise to some rate payers to the incompetence of LOCAL GOVERNMENT to operate effectively in 2014. (Lost records of tenders, property compliance, and hydrological surveys)

This proven non compliance to tenders regulations, along with Senoir management incompetency has created a first ever deficit for the last 2 years.

All this incompetency to the financials has been brought to council during question time in 2013/14 with demands for a probity audit.

Non audit committee councillors are not been equipped with bench mark parameters to comprehend the gravity of the financials.

This WALGA growing asset account using SWEK rate payer funds to build multi million dollar buildings in the CBD courtesy of differential rating system.

This unnecessary duplicated service is already provided free by the state government through the DLGC and hence wasting ratepayer funds.

Proposed mid year budget met with council negligence failing to effectively question the director of corporate affairs.

Reporting inaccurate information in the mid year budget. (notably not addressing the removal of the carbon tax some months earlier).

Ratepayer funds have been squandered by various acting CEO's.

Council interaction and direction has been a ineffective with the departing CEO as with the numerous appointed various ACEO's.

The obvious unqualified or mismatched Senoir operational employees in their roles is concerning.

As a rate payer this expenditure is akin to the a graph looking like a pig in a python, and covet money as per probity audit.

SWEKS rising management staff levels and operational expenditure has demanded additional money however regulatory compliance has deteriorated and been substantially assisted by the access to differential rating system.

We have not seen a grader for 5 full years adjacent to our rated property (location 605 Mulligans road) and yet our rates have increased by app. 50% over 5 years.

We have not even got a shire road within 20 kms of our mining lease (m80/528---M80/527 --- M80/520)

We have not even got scheme water, rubbish collection on Lot 100 Mills Road.

We have not even got a rubbish collection service on all but, the town residential rated property (Waterlily place).

Profiteering on rubbish collection by 100% for future children to enjoy, is akin to not providing currently demanded infrastructure. Bad decision by council again.

Council was presented with misleading information on operational costs to accept the rate rise. (example-- Street light tariffs)

Since 2010, no maintenance of table drains, shoulder reconstruction has occurred since the introduction of differential rates.

We have no access to scheme water, no underground sewerage, no rubbish collection, extremely poor internet services, no road maintenance and you are not evening addressing any of these issues by raising rates.

Services provided by SWEK are over exaggerated and are not cost comparative in line with private contractors at the landfill site, plant operating costs.

Our land fill councillors are putting money into the future account for new residents to enjoy and have a free tip site. Private contractors were operating the land fill at a fraction of the current SWEKS management advocacies.

SWEKS operational costs in terms of per capita are Unjustifiable as management is not addressing the cost benefit analysis requested at question time.

Lack of providing and replacing community ammenities and infrastructure despite hard ship faced by the rate payer is going unnoticed.

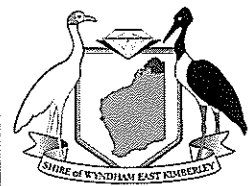
Inconsistency of community for the older established resident is being disrupted by unreasonable, uncapped rate rises coupled to obvious non compliant WALGA partnerships.

I trust that you will be able to process my objections are open to communication regarding my comments and finally request a confirmation receipt email of our objections.

Kind Regards

M R Northover, S M Rushby , M L Northover-Rhodes

Martinjinni Pty Ltd, Peak Environmental, Goldengate Nominees, Ord River Contracting



SHIRE of WYNDHAM | EAST KIMBERLEY

PO BOX 614 KUNUNURRA WA 6743

Our Ref: O-22330
Cross Ref: FM.05.11 / I-29228
Enquiries: Natalie Octoman

T | 08 9168 4100
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ABN | 35 647 145 756

18 June 2015

Mark Northover
PO Box 7
KUNUNURRA WA 6743

Dear Mr Northover

Re: Proposal to Impose Differential General Rates and Minimum Payments for 2015/16

Thank you for your correspondence dated 17 June 2015 on the above subject. As your correspondence was not received until after the closing date for public submissions, it has not been treated as a formal submission however it will be presented to the Council at the next Ordinary Meeting on 23 June 2015 for their information. In the meantime, I am happy to provide a response to some of the issues you have raised.

The Council, in considering the proposed differential rates and minimum payments for 2015/16, considered the following five principles (not necessarily listed in priority order) as outlined in the current Strategic Rating Policy:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

In applying these principles, the Council "aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities." Further information on how the principles are applied is contained within the Council's Strategic Rating Policy. This is consistent with the approach also taken during 2014/15.

The differential rating system has been allowable under the *Local Government Act 1995* since the mid-1980's. The Shire of Wyndham East Kimberley introduced differential rating for UV valued properties in 1999-2000 and for GRV valued properties in 2002-03. Differential rating is therefore not a new concept for the Shire and is considered to be a mechanism that assists in achieving equity for ratepayers across the community.

You have made a range of allegations in your submission for which I will not be responding to directly, however the Strategic Rating Policy outlines that rates are not a fee for service and provides the following on page 2:

b. User Benefit

Evaluating the relative benefits received by various classes of property raises many practical difficulties, in particular, trying to trace quantifiable consumption/benefits to particular types of properties. The analysis is often reduced to arguments of what services are consumed by residential versus farm, commercial/industrial versus residences, and between different towns. Clearly the exercise is not clear cut – for example, it might be argued that rural ratepayers derive less benefit from library services than their town counterparts but the reverse may be argued with respect to the costs of constructing or repairing long lengths of local roads to service a small number of properties. It is therefore recognised that the services provided by the Shire benefit the community as a whole.

As you'd be aware, the 2014/15 Budget saw a significant review of services undertaken, whereby there were many decisions made by the Council in an attempt to reduce costs and return to core service provision and sustainable asset management.

The Shire has seen a reduction in both Federal and State Government grants; additional operating and maintenance costs resulting from subdivisions and redevelopment of areas; the removal of the Shire involvement in the Wyndham Child Care Centre; discontinuance of pre-cyclone clean-ups; discontinuance of the Shire's involvement in cumbungi management; reductions in general service provision across the Shire with a reduction of 21.9 Full Time Equivalent positions lost to the organisation with each Directorate being affected; a significant reduction in the plant replacement program; and is continuing to review costs across the organisation. The costs of providing the current facilities, services and infrastructure however continue to rise at levels well above CPI. For further details in relation to these measures, the minutes of the 2 September 2014 Special Meeting of Council would be a useful reference.

The Council will consider all formal submissions at its Ordinary Council Meeting on 23 June 2015, whereby the Council may determine to either retain or modify the proposed differential rates and minimum payments for 2015/16. The meeting is open to all members of the public and I welcome your attendance.

While your submission was not received prior to the closing time for public submissions please note that a copy of your letter, and this response, will not only be provided to each Councillor for their information but that it will also be sent to the Minister for Local Government.

Yours sincerely



Carl Askew
Chief Executive Officer



POLICY NO	CP-FIN 3200	
POLICY	Strategic Rating Policy	
RESPONSIBLE DIRECTORATE	Corporate Services	
RESPONSIBLE OFFICER	Director Corporate Services	
COUNCIL ADOPTION	Date: 02/09/2014	Resolution No: 10528
REVIEWED/MODIFIED	Date: 23/06/2015	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date: May 2016	
LEGISLATION	<i>Local Government Act 1995 – Sections 6.26, 6.28, 6.33, 6.35</i> <i>Valuation of Land Act 1978</i>	
RELATED POLICIES	<ol style="list-style-type: none"> 1. Town Planning Scheme No. 7 Kununurra and Environs; 2. Town Planning Scheme No. 6 Wyndham Townsite 3. CP FIN-3208 Rates Exemptions for Charitable Organisations Policy (Non Rateable Land) 4. CP FIN-3209 Rates Concession Policy (Rateable Land) 5. CP FIN-3212 Rates and Charges Debt Collection Policy 	
RELATED PROCEDURES	N/A	

PURPOSE:

The purpose of this Policy is to outline the Council's principles and methodology when exercising the Council's discretionary powers to determine the level and structure of rates levied under the *Local Government Act 1995*.

DEFINITIONS:

Gross Rental Value of land means the gross annual rental that the land might reasonably be expected to realize if let on a tenancy from year to year upon condition that the landlord were liable for all rates, taxes and other charges thereon and the insurance and other outgoings necessary to maintain the value of the land...with further provisions outlined in the *Valuation of Land Act 1978*.

Land means lands, tenements and hereditaments, and any improvements to land, and includes any interest in land.

Merged Improvements means any works in the nature of draining, filling, excavation, grading or levelling of the land, retaining walls or other structures or works for that purpose, the removal of rocks, stone or soil, and the clearing of timber, scrub or other vegetation.

Unimproved Value for land situated within a townsite is the site value of the land. In general this means the value of the land as if it were vacant with no improvements except merged improvements. For land outside a townsite it is valued as if it had no improvements. In this case the land is valued as though it remains in its original, natural state, although any land degradation is taken into account. Please refer to the *Valuation of Land Act 1978* for further criteria used when assessing unimproved values of land.

Vacant Land means land on which there are no improvements other than merged improvements.

POLICY STATEMENTS:

The Council believes that overall policy must be underpinned by sound principles, which are well understood, communicated to ratepayers and compliant with current legislation.

The Council aspires to balance service levels in accordance with the needs and expectations of its community and sets taxation levels (rating) to adequately resource its roles and responsibilities.

In determining rates, the Council gives primary consideration to its strategic directions, budget considerations, the current economic climate, other external factors and likely impacts upon the community.

The *Local Government Act 1995* provides the Council with defined discretionary powers to levy rates and require contributions from the community for the provision of services to the district.

The rating principles outlined within this Policy are to apply to all rateable land within the Shire of Wyndham East Kimberley.

The Council will consider the following principles (not necessarily listed in priority order) when developing, maintaining and applying its rating methodology:

1. Equity
2. Incentive
3. Administrative Efficiency
4. Compliance
5. Sustainability

1. EQUITY

Equity is the concept of fairness within property rating in order to achieve an equitable distribution of the rate burden across the community. A differential rating structure can assist in achieving an equitable imposition of rates and charges. The equity principle includes consideration of property wealth tax, user benefit and capacity to pay principles.

a. Property Wealth Tax

The Council is limited to taxing one component of wealth, being real property. The wealth tax principle implies that rates paid are dependent upon the value of a ratepayer's real property and does not necessarily have any correlation to the individual ratepayer's consumption of services or the perceived benefits derived by individual ratepayers from the expenditures funded from rates. Some moderation of the effect of property value on the level of rates paid through differential rates may be required to make the rating system more equitable.

b. User Benefit

Evaluating the relative benefits received by various classes of property raises many practical difficulties, in particular, trying to trace quantifiable consumption/benefits to particular types of properties. The analysis is often reduced to arguments of what services are consumed by residential versus farm, commercial/industrial versus residences, and between different towns. Clearly the exercise is not clear cut – for example, it might be argued that rural ratepayers derive less benefit from library services than their town counterparts but the reverse may be argued with respect to the costs of constructing or repairing long lengths of local roads to service a small number of properties. It is

therefore recognised that the services provided by the Shire benefit the community as a whole.

c. *Capacity to Pay*

The relativity of rates paid by each property category is to be considered in relation to their respective capacity to pay. Ratepayers with higher value properties generally have a higher wealth and a greater capacity to pay. However, as rates are levied on unrealised wealth in the form of real property their nexus with ratepayer's capacity to pay may be more tenuous. The Council acknowledges that property rates do not recognise that individual ratepayers within a rating category can be "asset rich" and "income poor". While income and goods and services taxes are more reflective of capacity to pay, it is not possible to expect a property rating system to deal practically with all aspects of capacity to pay based on individual households and businesses.

Rating instruments such as differential rates are available to reflect the differing capacity of classes to pay. For example, higher differential rates may reflect the ability of a class of property to obtain concessions from the tax deductibility of rates or the income producing capacity of the class of property.

2. INCENTIVE

Rate setting objectives may be used to support the Council's social, environmental, or economic goals as part of a longer term strategy within the Strategic Community Plan. For example, rates can be altered to encourage business activity, the development of vacant land or environmentally sustainable improvements in order to achieve "Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure" as outlined in Goal 2 of the Strategic Community Plan 2012 2022.

3. ADMINISTRATIVE EFFICIENCY

The Council will endeavour to establish a rating system that:-

- a. Promotes simplicity, transparency and understanding; and
- b. Is efficient in administering, issuing of assessments, collection of rates, monitoring outcomes, debt recovery, and reduces the incidences of avoidance; and
- c. Reduces complexity; and
- d. Is open to scrutiny.

4. COMPLIANCE

The Council will apply its discretionary powers in compliance with the Local Government Act 1995 and associated regulations, while seeking to maximise rate revenue within the adopted rating framework.

5. SUSTAINABILITY

The Council will make decisions that support the financial strategies for the delivery of infrastructure and services identified in the Strategic Community Plan and underpinned by the Long Term Financial Plan, the Asset Management Strategy and other informing plans and strategies.

APPLICATION OF PRINCIPLES

1. APPLICATION OF THE EQUITY PRINCIPLE

1.1. Differential Rating

The Council has a diverse mix of geographically located and land use properties. The Council therefore applies differential rating to ensure greater equity and contribution from rates according to land use, zoning or a combination of these.

1.1.1. Alignment with Town Planning Scheme No. 7 Kununurra and Environs, and Town Planning Scheme No. 6 Wyndham Townsite

As far as possible, an objective assessment of the predominant use of land will be utilised to determine the appropriate rating category for each property. This will be done in a manner whereby the community will be able to understand how and why a particular determination has been made and will therefore utilise the Town Planning Scheme No.7 for Kununurra and Environs (TPS7) and Town Planning Scheme No 6 for the Wyndham Townsite (TPS6).

Where the zoning and land uses are amended in either Town Planning Schemes, or TPS7 or TPS6 are superseded, then this Policy will be reviewed, and the new zones and land uses will be considered when amending the rating system for the following financial year.

The symbols used in the cross reference in the Zoning Table (Appendix A) have the following meanings as defined in TPS7 and TPS6:

‘P’ means that the use is permitted provided it complies with the relevant standard and requirements laid down in the Scheme and all conditions (if any) imposed by the Council in granting Planning Approval;

‘IP’ means a use that is not permitted unless such use is incidental to the predominant use of the land as determined by the Council;

‘AA’ means that the Council may, at its discretion, permit the use;

‘SA’ means that the Council may, at its discretion, permit the use after notice of application has been given in accordance with Clause 11.2 of TPS7 and Clause 10.2 of TPS6;

‘X’ means a use that is not permitted by the Scheme.

While Appendix A may indicate that a particular land use is not permitted in a particular zone by the Scheme, this Policy, as in both of the Town Planning Schemes, recognises non-conforming use rights whereby the rating differential category would be considered to be that applicable if the land use was permitted within the particular zone.

Where the land is being predominantly used for a purpose that is not specifically mentioned in the Zoning Table, the Shire will attempt to align it to a land use that is mentioned.

Any land listed as a Special Site in either TPS7 or TPS6 will be aligned to the rating category that best defines its predominant use. For example, any land within the Airport Special Site Zone will be deemed to be operating commercially, and therefore be GRV Commercial rated.

Where the predominant use of the land is for non-rural purposes, the Council will seek to have the land valued on a GRV basis. Where the predominant use of land is for rural purposes, the Council will seek to have the land valued on a UV basis.

1.1.2. Spot Rating

The Council may seek Ministerial approval for a spot valuation where there are a number of lots within a valuation area that are used for purposes that are inconsistent with the predominant use of land within that valuation area. For example, in a predominantly rural area valued on UV, there are a number of non-rural uses including service stations, road houses, tourist accommodation and small, commercial or industrial operations. The Council may, depending on the circumstances, seek Ministerial approval to apply a GRV to these properties.

The Council has determined that spot valuations can be effective in promoting rating equity by ensuring that properties with similar uses are rated on the same method of valuation regardless of their location within the district. However, the Council also recognises that they can be more labour intensive and less administratively efficient than other options, therefore each will be considered on a case by case basis.

1.1.3. Split Rating

Split rating non-rural uses on unimproved land is also permitted which effectively isolates the non-rural use from the remainder of the property, whereby one land parcel would reflect the rural use and the other land parcel would reflect the non-rural use. Council has determined not to implement split rating at this stage based on the cost of its implementation and ongoing administration.

1.2. Specified Area Rate

The Council is able to impose a Specified Area Rate to meet the cost of undertaking specific work, providing a service or facility if the Council considers that the ratepayers or residents within that area will:

- Have benefited or will benefit from; or
- Have access to or will have access to; or
- Have contributed or will contribute to the need for,

that work, service or facility.

The Council will consider its options to set a Specified Area Rates, if appropriate, when developing its Rating Strategy.

1.3. Interim Rating

Subject to section 6.28 of the *Local Government Act 1995* and in respect of valuations supplied by the Valuer-General for the purpose of interim valuations, the Shire of Wyndham East Kimberley will back rate or refund rates to property owners where ownership:

- Has not changed in a prior financial year to the effective date of the change as determined by the Valuer-General; or
- Has changed in a prior financial year, to the date of change of ownership.

For the purposes of this Policy, a change in ownership does not occur where there is a change in the structure of a body corporate (including name change) resulting in the change having no effect on altering the effectual control of the company.

1.4. Minimum Payments

The Council will establish and maintain a minimum payment structure to ensure all ratepayers contribute a minimum amount regardless of their property value.

The Council accepts that the adoption of a minimum payment amount is an adjustment to the blanket application of the equity principle. This adjustment is made to ensure property owners make a reasonable contribution to the non-exclusive services, facilities and infrastructure provided for the benefit of the whole district.

The exception to this statement applies to those properties classified as UV Mining Vacant on the basis that both the rate in the dollar and the minimum payment reflects a similar methodology as that applied in the *Valuation of Land Act 1978* when determining the unimproved valuations.

1.5. Rates Exemptions

The Council's *CP FIN-3208 Rates Exemptions for Charitable Organisations Policy (Non Rateable Land)* provides an administrative framework for assessing any application for properties to be classified as non-rateable land on the grounds of being used for charitable purposes in accordance with section 6.26 of the *Local Government Act 1995*. Such organisations are to make application in accordance with the application form and guidelines attached to the Policy. The properties will be reviewed every two years for continued eligibility.

1.6. Rates Concessions

The Councils' *CP FIN-3209 Rates Concessions Policy (Rateable Land)* provides an administrative framework for assessing any application requesting the waiving or granting concession from rates to 'not for profit' community based organisations occupying rateable land in accordance with Council's discretionary powers provided by section 6.47 of the *Local Government Act 1995*.

Any rates waivers or concessions will be approved for two financial years and considered during the annual budget process. The Council will re-consider rates concessions every two years.

1.7. Rates Discounts

Subject to the *Rates and Charges (Rebates and Deferments) Act 1992*, the Shire in accordance with the *Local Government Act 1995* and Regulations, does not offer a discount for the early payment of any rate or charge.

1.8. Payment Options

The Council will offer three rate payment options as follows:

- a. Payment in full 35 days after the date of service appearing on the rate notice; or
- b. Two instalments; or
- c. Four instalments.

There will be an administrative charge per instalment associated with the establishment and administering the instalment payment option, along with an interest charge to reflect the lost interest from investment opportunities that are not available due to the length of time taken to collect the payment.

1.9. Interest on Overdue Rates and Service Charges

Rates and service charges not paid in accordance with the three payment options will be subject to an overdue interest rate set by the Council in accordance with the *Local Government Act 1995*.

2. *APPLICATION OF THE INCENTIVE PRINCIPLE*

The Council will provide an incentive through a reduced rate in the dollar for GRV valued land that is improved in comparison to land that remains undeveloped in order to promote land development and assist in achieving Strategy 2.2.1 of the Strategic Community Plan being to “promote the expansion of residential and industrial land”.

3. *APPLICATION OF THE EFFICIENCY PRINCIPLE*

The Council will provide for changes in:-

- Level of rating; and
- Structure of its rating policy; and
- Application of its discretionary rating powers

in a way that:-

- a. Promotes simplicity, transparency and understanding; and
- b. Is efficient in administering, issuing of assessments, collection of rates, monitoring outcomes, debt recovery, and reduces the incidences of avoidance; and
- c. Reduces complexity; and
- d. Is open to scrutiny.

4. *APPLICATION OF THE COMPLIANCE PRINCIPLE*

The Council will ensure compliance with the *Local Government Act 1995* and all associated regulations in the establishment of its rating structure and rating model.

5.

APPLICATION OF THE SUSTAINABILITY PRINCIPLE

The Council will consider the four pillars of financial sustainability in the establishment of its rating structure and associated model:

- a. Strategic and Financial Planning;
- b. Income Diversification;
- c. Sound Administration and Finance;
- d. Own Income Generation.

OBJECTS OF AND REASONS FOR DIFFERENTIAL RATES

1. GRV – RESIDENTIAL

A differential rate is applied to GRV valued land within the town site which is used primarily for residential purposes with the exception of Transient Accommodation, and as outlined in Appendix A.

The GRV differential rate for Residential will be the “base rate” from which all other differential rates that hold a GRV value will be calculated, recognising a 6.9% increase from 2013/14.

Rate in the dollar is 9.4738 cents. Minimum payment is \$1,105.00.

2. GRV – OTHER VACANT

A differential rate is applied to GRV valued land within the town site which is deemed to be vacant land (unimproved land).

Vacant land is defined in accordance with the *Valuation of Land Act 1978*, and outlined in the definitions section of this Policy.

Where the definitions are amended in the *Valuation of Land Act 1978*, those amendments will prevail. If the *Valuation of Land Act 1978* is superseded, then similar terms in the new Act will prevail (in accordance with any amendments to the *Local Government Act 1995*).

The vacant land differential is set to ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of the Council particularly as there is a different method used for the valuation of vacant land.

It is also to signify that the Council prefers land to be developed. The encouragement of development is strategically important as it has a positive effect on local employment, economic diversity and further community returns from investment in the region.

A multiplier of 1.5 times the base rate in the dollar will be applied.

Rate in the dollar is 14.2107 cents. Minimum payment is \$1,105.00.

3. *GRV – COMMERCIAL*

A differential rate is applied to GRV valued land which is used primarily for commercial purposes, and may include land uses such as caravan parks, fast food outlets, hotels, restaurants, boarding houses or veterinary consulting rooms as outlined in Appendix A.

The commercial sector generates high pedestrian and traffic volumes resulting in a greater impact on the provision of services, facilities and infrastructure, and is also considered to have a greater capacity to pay through rates generally being tax deductible. This sector should therefore contribute a greater share of the costs associated with economic development and marketing programs which assist and facilitate economic growth in the region; road construction; maintenance and refurbishment including road drainage systems; roadside sweeping; landscaping; verge maintenance and street lighting.

In recognising the greater impact on infrastructure, facilities and services, the Council will establish the rate in the dollar at 1.1 times the base rate in the first year, with the intention to increase this each year thereafter, to be capped at 2 times the base rate over a 5 year period.

Rate in the dollar is 12.3159 cents. Minimum payment is \$1,105.00.

4. *GRV – INDUSTRIAL*

A differential rate is applied to GRV valued land which is used primarily for industrial purposes and as outlined in Appendix A.

This sector generates high traffic volumes with heavy loads and is considered to have a greater capacity to pay through rates generally being tax deductible. This sector should therefore contribute a greater share of the costs associated with road construction, maintenance and refurbishment including road drainage systems.

In recognising the greater impact on infrastructure in particular, the Council will recognise the rate in the dollar at 1.1 times the base rate in the first year, with the intention to increase each year thereafter, to be capped at no more than 1.7 times the base rate over a 5 year period.

Rate in the dollar is 11.3686 cents. Minimum payment is \$1,105.00.

5. *UV – RURAL RESIDENTIAL*

A differential rate is applied to UV valued land located outside the gazetted town site that is zoned Rural Living, Rural Smallholding and Special Rural which is used primarily for or capable of being used primarily for rural residential purposes.

Rural residential has the same meaning as the objectives of TPS7 and TPS6 for these Zones, being:-

- a. Providing for those people wishing to reside on a small rural holding (as in the case of a Rural Living Zone in TPS7); or
- b. Providing for those people wishing to reside on rural lifestyle lots (as in the case of the Rural Smallholding Zone in TPS7); or
- c. Providing for those people wishing to reside on a small rural holding (as in the case of the Special Rural Zone in TPS6).

It should be noted that this is intended as a transitional rating differential category while the Shire work through a process to have these properties provided with a gross rental value instead of an unimproved value given the primary purpose is residential.

The average rates payable for each property will be similar to the average rates payable for GRV Residential properties, recognising the transition to a GRV value.

Rate in the dollar is 0.9979 cents. Minimum payment is \$1,105.00.

6. *UV – PASTORAL*

A differential rate is applied to UV valued land located outside the gazetted town site which is used or capable of use primarily for pastoral purposes. Properties such as these have the characteristics of a commercial operation in an undeveloped and sparsely populated area.

Pastoral purposes have the same meaning as defined in the *Land Administration Act 1997* which states:-

“pastoral purposes” means the purposes of -

- (a) the commercial grazing of authorised stock; and
- (b) agricultural, horticultural or other supplementary uses of land inseparable from, essential to, or normally carried out in conjunction with the grazing of authorised stock, including the production of stock feed; and
- (c) activities ancillary to the activities mentioned in paragraphs (a) and (b).

Due to the valuation being based generally on a lease value, the result is a low valuation over an extensive land area. The sector generates high traffic volumes with heavy loads and has the highest impact on the road infrastructure in particular. While it is considered to have a greater capacity to pay through rates generally being tax deductible, the Council also recognises that because of the higher impact on infrastructure that this sector should therefore contribute a greater share of the costs associated with road construction, maintenance and refurbishment.

Rate in the dollar is 5.3637 cents. Minimum payment is \$1,105.00.

7. *UV – COMMERCIAL/INDUSTRIAL*

A differential rate is applied to UV valued land located outside the gazetted town site that is used primarily for, or capable of being used primarily for commercial, industrial and/or tourism purposes.

This sector generates high traffic volumes, and is considered to have a greater capacity to pay through rates generally being tax deductible. This sector should therefore contribute a greater share of the costs associated with road construction, maintenance and refurbishment including road drainage systems and other infrastructure required, along with other costs associated with marketing and economic development.

It should be noted that this is intended as a transitional rating differential category while the Shire work through a process to have these properties provided with a gross rental value instead of an unimproved value given the primary purpose is commercial, industrial and/or tourism and the land owners should have been contributing more equitably to these costs.

Rate in the dollar is 0.6843 cents. Minimum payment is \$1,105.00.

8. *UV – RURAL AGRICULTURE 1*

A differential rate is applied to UV valued land located outside the gazetted town site which is zoned Rural Agriculture 1 or General Rural which is used or capable of being used primarily for extensive agriculture, agroforestry and/or horticulture purposes.

It is recognised that this sector has a greater impact on the road infrastructure with the heavy loads that it generates, and also that it has a greater capacity to pay through rates generally being tax deductible. This sector should therefore contribute a greater share of the costs associated with road construction, maintenance and refurbishment including road drainage systems and other infrastructure required.

This differential rating category will also be utilised for land where the land meets the objectives outlined above, but is based on a percentage of the overall lot size for which the other portion of the lot is non rateable land.

It is recognised that the Valuer-General, when determining the UV for land, references the land market at the date of valuation where all sales relevant to the predetermined date of valuation are investigated. The Council has also recognised that the fluctuations in market conditions for land in the Rural Agriculture 1 zone can be significant and therefore a separate rating differential category will be retained for land that is within the Rural Agriculture 1 or General Rural zones.

Rate in the dollar is 0.9677 cents. Minimum payment is \$1,105.00.

9. *UV – RURAL AGRICULTURE 2*

A differential rate is applied to UV valued land located outside the gazetted town site which is zoned Rural Agriculture 2 which is used primarily for, or is capable of use primarily for intensive agriculture and/or horticulture purposes.

This sector does have a high impact on infrastructure, but not to the extent of those properties zoned Rural Agriculture 1. Properties within the Rural Agriculture 2 zone are also considered to have a greater capacity to pay through rates generally being tax deductible and should therefore contribute a greater share of the costs associated with road construction, maintenance and refurbishment including road drainage systems and other infrastructure required.

Along with the lesser impact on infrastructure, the sizes of the lots within the Rural Agriculture 2 zone are generally not as large as those within the Rural Agriculture 1 zone, therefore it is recognised that the capacity to pay is slightly lower for those in the Rural Agriculture 2 zone.

As outlined in the Rural Agriculture 1 differential rating category above, it is recognised that the Valuer-General, when determining the UV for land, references the land market at the date of valuation where all sales relevant to the predetermined date of valuation are investigated. The Council has determined that the market conditions do not fluctuate as considerably as those in the Rural Agriculture 1 zone and therefore it will retain a separate rating differential category for land that is within the Rural Agriculture 2 zone.

Rate in the dollar is 0.6843 cents. Minimum payment is \$1,105.00.

10. *UV – MINING*

A differential rate is applied to UV valued land located outside the gazetted town site which is used primarily for mining purposes and encompasses mining leases, petroleum exploration permits and general purpose mining leases.

The mining sector activities require a greater level of non-exclusive services than pastoral activities in the same location and their impact on the community is of a much greater intensity, particularly given the haulage of heavy machinery through the town and its impact on associated infrastructure and the provision of rest/truck parking areas. The sector is considered to have a greater capacity to pay through rates generally being tax deductible, and therefore the sector should contribute to a greater share of the costs of providing infrastructure across the Shire.

Many of the mining tenements have very small values. In order to not only achieve compliance in relation to the number of properties on minimum payments, but to ensure that the minimum payment is reflective of the overall cost of providing services to the community a higher rate in the dollar is imposed.

Rate in the dollar is 28.0312 cents. Minimum payment is \$1,105.00.

10. *UV – MINING VACANT*

A differential rate is applied to UV valued land located outside the gazetted town site which is used primarily for mining purposes and encompasses exploration and prospecting licences.

Exploration and prospecting licences are considered to have a minimal impact on the cost of providing services, facilities and infrastructure across the Shire and could be considered to be vacant land and only when minerals are discovered is it anticipated that the property holder would seek to convert the property into a mining lease.

Many of the mining tenements for exploration and prospecting have very small values and with exploration licences, it is understood that there is a requirement for the licence holder to return half of the land back to the State each year, however there is no such requirement for prospecting licences. In order to ensure that there is some equity in the application of the rate in the dollar to these licences, a 50% reduction in comparison to the UV Mining rate in the dollar has been applied.

Rate in the dollar is 14.0156 cents. Minimum payment is \$553.00.

11. *UV – OTHER*

A differential rate is applied to UV valued land located outside the gazetted town site which is not otherwise rated as Rural Residential, Pastoral, Commercial/Industrial, Rural Agriculture 1, Rural Agriculture 2, Mining or Mining Vacant to ensure that all property owners contribute to the provision of services, facilities and infrastructure.

Rate in the dollar is 0.6420 cents. Minimum payment is \$1,105.00.

EXPLANATORY NOTES:

BACKGROUND

This Policy has been developed within the context of the Shire of Wyndham East Kimberley's Strategic Community Plan and Corporate Business Plan. In setting rates, the Council considers the long term vision for the Shire, strategic directions, financial sustainability and the likely impacts on the community.

Rates are based on property values and are therefore a property tax. Under the *Valuation of Land Act 1978*, the Valuer-General must maintain valuation rolls of rateable and taxable land throughout Western Australia. These rolls are periodically provided to the Shire for rating purposes. On behalf of the Valuer-General, Property & Valuations Services, Landgate (the Western Australian Land Information Authority), conducts general valuations (revaluations) and makes interim valuations as required.

The types of values made are:

1. Unimproved Value (UV), and
2. Gross Rental Value (GRV).

The unimproved value and gross rental value are defined within the *Valuation of Land Act 1978* and have been outlined in the definitions section of this Policy.

The Shire has no role in the process of determining the valuations attributed to each property. All land within the Shire is rateable except for land specifically exempt under section 6.26 of the *Local Government Act 1995* as outlined above and the Council's *CP FIN-3208 Rates Exemption Policy for Charitable Organisations (Non-Rateable Land)*.

The Council determines the amount of revenue required from rates collections each year to meet its financial, strategic, operational and statutory responsibilities for the coming financial year.

Valuations are not the sole factor in determining the rates income of the Shire, and as a result, valuations increases or decreases do not necessarily cause a rate rise or reduction.

SCOPE AND LIMITATIONS

The *Local Government Act 1995* provides the Council with defined discretionary powers to levy rates and require contributions from the community for the provision of services to the district.

The rating principles outlined within this Policy are to apply to all rateable land within the Shire of Wyndham East Kimberley.

The applicable legislation in reference to limitations is section 6.26 of the *Local Government Act 1995* which outlines land that is not rateable, and is therefore exempt from rates section 6.26 states:-

6.26. Rateable land

- (1) *Except as provided in this section all land within a district is rateable land.*
- (2) *The following land is not rateable land —*
 - (a) *land which is the property of the Crown and —*

- (i) *is being used or held for a public purpose; or*
- (ii) *is unoccupied, except —*
 - (I) *where any person is, under paragraph (e) of the definition of **owner** in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the Mining Act 1978 in respect of land the area of which does not exceed 10 ha or a miscellaneous licence held under that Act; or*
 - (II) *where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of **owner** in section 1.4 occupies or makes use of the land;*

and

- (b) *land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government; and*
 - (c) *land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government; and*
 - (d) *land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood; and*
 - (e) *land used exclusively by a religious body as a school for the religious instruction of children; and*
 - (f) *land used exclusively as a non-government school within the meaning of the School Education Act 1999; and*
 - (g) *land used exclusively for charitable purposes; and*
 - (h) *land vested in trustees for agricultural or horticultural show purposes; and*
 - (i) *land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the Financial Management Act 2006) by that co-operative and used solely for the storage of grain where that co-operative has agreed in writing to make a contribution to the local government; and*
 - (j) *land which is exempt from rates under any other written law; and*
 - (k) *land which is declared by the Minister to be exempt from rates.*
- (3) *If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that co-operative or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.*
- (4) *The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.*
- (5) *Notice of any declaration made under subsection (4) is to be published in the Gazette.*

- (6) *Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.*

In determining the methodology of how rates will be applied, the Council is to consider the basis of rates in accordance with section 6.28 of the *Local Government Act 1995* which states:

6.28. Basis of rates

- (1) *The Minister is to —*
- (a) *determine the method of valuation of land to be used by a local government as the basis for a rate; and*
 - (b) *publish a notice of the determination in the Government Gazette.*
- (2) *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —*
- (a) *where the land is used predominantly for rural purposes, the unimproved value of the land; and*
 - (b) *where the land is used predominantly for non-rural purposes, the gross rental value of the land.*
- (3) *The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.*
- (4) *Subject to subsection (5), for the purposes of this section the valuation to be used by a local government is to be the valuation in force under the Valuation of Land Act 1978 as at 1 July in each financial year.*
- (5) *Where during a financial year —*
- (a) *an interim valuation is made under the Valuation of Land Act 1978; or*
 - (b) *a valuation comes into force under the Valuation of Land Act 1978 as a result of the amendment of a valuation under that Act; or*
 - (c) *a new valuation is made under the Valuation of Land Act 1978 in the course of completing a general valuation that has previously come into force,*
- the interim valuation, amended valuation or new valuation, as the case requires, is to be used by a local government for the purposes of this section.*

In determining the differential general rates, the Council must consider section 6.33 and section 6.35 of the *Local Government Act 1995* which states:

6.33. Differential general rates

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics —*
- (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
 - (b) *a purpose for which the land is held or used as determined by the local government; or*

- (c) *whether or not the land is vacant land; or*
 - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may —*
- (a) *specify the characteristics under subsection (1) which a local government is to use; or*
 - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*
- (3) *In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*
- (4) *If during a financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1)(a) applies.*
- (5) *A differential general rate that a local government purported to impose under this Act before the Local Government Amendment Act 2009 section 39(1)(a) came into operation¹ is to be taken to have been as valid as if the amendment made by that paragraph had been made before the purported imposition of that rate.*

6.35. Minimum payment

- (1) *Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
- (2) *A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.*
- (3) *In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than —*
- (a) *50% of the total number of separately rated properties in the district; or*
 - (b) *50% of the number of properties in each category referred to in subsection (6),*
- on which a minimum payment is imposed.*
- (4) *A minimum payment is not to be imposed on more than the prescribed percentage of —*
- (a) *the number of separately rated properties in the district; or*
 - (b) *the number of properties in each category referred to in subsection (6),*
- unless the general minimum does not exceed the prescribed amount.*
- (5) *If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) *For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories —*

- (a) *to land rated on gross rental value; and*
- (b) *to land rated on unimproved value; and*
- (c) *to each differential rating category where a differential general rate is imposed.*

TRANSITIONARY PERIOD

As outlined within the objects of and reasons for differential rates within this Policy, the UV Rural Residential, UV Commercial/Industrial are intended to be transitional differential rating categories while the Shire work through a process to have these properties provided with a gross rental value instead of an unimproved value given the primary purpose is residential, commercial, industrial and/or tourism and the land owners should have been contributing more equitably to these costs.

Council therefore commits to continuously working through this process.

RISK:

Risk: Inability to fund the infrastructure gap.

Control: Develop LTFP to ensure critical assets maintained in Annual Budgets.

Risk: Inability to deliver levels of service expected by the community.

Control: Current budget and service levels.

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS	ZONING AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS																RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
	TOWN CENTRE	LOCAL CENTRE	TOURIST	RESIDENTIAL	RESIDENTIAL DEVELOPMENT	LIGHT INDUSTRY	MIXED BUSINESS	RURAL INDUSTRY	COMPOSITE INDUSTRY	GENERAL RURAL	RURAL AGRICULTURE 1	RURAL AGRICULTURE 2	RURAL LIVING	SPECIAL SITE	SETTLEMENT	RURAL SMALLHOLDING	
COMMERCIAL																	
Amusement Parlour	P	AA	AA	X	X	X	AA	X	X	X	X	X	X			X	GRV Commercial
Art and Craft Centre	P	X	AA	X	X	IP	SA	X	SA	IP	IP	IP	IP				GRV Commercial
Art Gallery	P	X	AA	X	X	IP	SA	X	SA	IP	IP	IP	IP			IP	GRV Commercial
Bakery - Retail	P	SA	SA	X	X	AA	P	X	SA	X	X	X	X			X	GRV Commercial
Bakery - Wholesale	X	X	X	X	X	P	P	X	SA	X	X	X	X			X	GRV Commercial
Bed and Breakfast	AA	X	P	SA	SA	X	X	X	X	IP	IP	IP	AA			IP	GRV Commercial
Boarding House	P	X	P	SA	AA	X	SA	X	X	X	X	X	X			X	GRV Commercial
Brewery	X	X	X	X	X	X	X	AA	X	IP	SA	SA	IP			X	GRV Commercial
Cabin	X	X	P	X	X	X	X	X	X	IP	IP	IP	X				GRV Commercial
Car Park	P	P	P	AA	AA	IP	IP	IP	IP	IP	IP	X	X			X	GRV Commercial
Caravan Park	P	X	AA	X	X	X	SA	SA	X	X	X	X	X			X	GRV Commercial
Camping Ground	SA	X	SA	X	X	X	SA	X	X	X	X	X	X			X	GRV Commercial
Chalet	X	X	P	X	X	X	X	X	X	IP	IP	IP	X				GRV Commercial
Convenience Store	P	P	P	X	X	AA	AA	IP	X	X	X	X	X			X	GRV Commercial
Drive-In Theatre	AA	X	SA	X	X	AA	X	X	X	X	X	X	X			X	GRV Commercial
Dry Cleaning Premises	P	X	X	X	X	P	AA	X	X	X	X	X	X			X	GRV Commercial
Farm Stay	X	X	X	X	X	X	X	X	X	IP	IP	IP	SA			IP	GRV Commercial
Farm Supply Centre	X	X	X	X	X	P	P	P	SA	X	X	X	X			X	GRV Commercial
Fast Food Outlet	P	P	SA	X	X	AA	AA	X	X	X	X	X	X			X	GRV Commercial
Funeral Parlour	AA	X	X	X	X	AA	SA	X	X	X	X	X	X			X	GRV Commercial
Garden Centre	P	AA	X	X	X	P	P	AA	AA	AA	AA	AA	AA			AA	GRV Commercial
Health Studio	P	AA	AA	X	X	SA	AA	X	X	X	X	X	X			X	GRV Commercial
Home Business	X	X	X	X	X	X	X	X	AA	AA	AA	AA	AA			AA	GRV Commercial
Home Occupation	P	X	X	P	P	X	X	X	AA	P	P	P	P			P	GRV Commercial
Hotel	P	X	P	X	X	X	SA	X	X	X	X	X	X			X	GRV Commercial
Laundromat	P	P	AA	X	X	P	P	X	X	X	X	X	X			X	GRV Commercial
Lunch Bar	P	P	P	X	X	AA	P	AA	SA	X	X	X	X			X	GRV Commercial
Marine Filling Station	X	X	SA	X	X	AA	AA	X	X	X	X	X	X			X	GRV Commercial
Market	P	SA	X	X	X	AA	AA	AA	AA	AA	X	X	X			X	GRV Commercial
Motel	P	X	P	X	X	X	SA	X	X	X	X	X	X			X	GRV Commercial
Motor Vehicle/Marine Sales Premises	P	X	X	X	X	P	P	X	X	X	X	X	X			X	GRV Commercial
Motor Vehicle Hire	P	X	P	X	X	P	P	X	AA	X	X	X	X			X	GRV Commercial
Motor Vehicle Wash Station	SA	X	SA	X	X	SA	SA	SA	SA	X	X	X	X			X	GRV Commercial
Museum	P	X	AA	X	X	X	X	X	X	IP	X	X	X				GRV Commercial
Night Club	AA	X	AA	X	X	X	SA	X	X	X	X	X	X			X	GRV Commercial
Office	P	P	IP	X	X	IP	AA	IP	IP	IP	IP	IP	IP			IP	GRV Commercial
Plant Nursery	AA	AA	X	X	X	P	P	AA	AA	IP	IP	IP	X			AA	GRV Commercial
Reception Centre	P	X	AA	X	X	X	X	X	X	X	X	X	X			X	GRV Commercial
Restricted Premises	SA	SA	X	X	X	SA	SA	X	X	X	X	X	X			X	GRV Commercial
Restaurant	P	P	P	X	X	X	AA	X	X	SA	SA	SA	X			X	GRV Commercial
Road House	SA	SA	SA	X	X	AA	AA	SA	SA	X	X	X	X			X	GRV Commercial
Service Station	X	X	X	X	X	P	P	SA	SA	X	X	X	X			X	GRV Commercial
Shop	P	P	AA	X	X	X	SA	X	X	X	X	X	X			X	GRV Commercial
Showroom	P	X	X	X	X	P	P	SA	AA	X	X	X	X			X	GRV Commercial
Tavern	P	X	SA	X	X	X	X	X	X	X	X	X	X			X	GRV Commercial
Tourist Accommodation	P	X	P	X	X	X	X	X	X	X	X	X	X			X	GRV Commercial
Warehouse	AA	X	X	X	X	P	AA	SA	AA	X	X	X	X			X	GRV Commercial
Wayside Stall	X	X	X	X	X	X	X	AA	AA	IP	IP	IP	AA			X	GRV Commercial
Winery	X	X	X	X	X	X	X	AA	X	IP	SA	SA	IP			X	GRV Commercial

PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2 OF THE TPS NO. 7.

PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS	ZONING AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS																RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16		
	TOWN CENTRE	LOCAL CENTRE	TOURIST	RESIDENTIAL	RESIDENTIAL DEVELOPMENT	LIGHT INDUSTRY	MIXED BUSINESS	RURAL INDUSTRY	COMPOSITE INDUSTRY	GENERAL RURAL	RURAL AGRICULTURE 1	RURAL AGRICULTURE 2	RURAL LIVING	SPECIAL SITE	SETTLEMENT	RURAL SMALLHOLDING		
RESIDENTIAL																		
Aged & Dependent Persons Dwelling	AA	X	X	AA	AA	X	X	X	X	X	X	X	X	X	X	X	X	GRV Residential
Caretaker's Dwelling	IP	IP	IP	X	X	IP*	IP	IP	AA	IP	IP	IP	X				X	Ancillary Use. Refer to the predominant use of the land for alignment.
Community Home	AA	X	X	P	P	P	X	X	X	X	X	X	X	X	X	X	X	GRV Residential
Grouped Dwelling	AA	X	SA	AA	AA	X	X	X	X	X	X	X	X	X	X	X	X	GRV Residential
Multiple Dwelling	AA	X	SA	AA	AA	X	X	X	X	X	X	X	X	X	X	X	X	GRV Residential
Residential Building	AA	X	SA	SA	SA	X	SA	X	X	X	X	X	X	X	X	X	X	GRV Residential
Single Dwelling	X	X	X	P	P	X	X	X	AA	P	P	P	P				P	GRV Residential
Transient Accommodation	X	X	AA	X	X	SA	SA	X	AA	AA	AA	AA	X				X	GRV Commercial
INSTITUTIONAL																		
Civic Building	P	AA	X	SA	SA	SA	SA	X	SA	X	X	AA	AA				AA	GRV Commercial
Club Premises	P	AA	SA	X	X	X	AA	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Community Service Depot	AA	X	X	AA	AA	P	P	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	GRV Commercial
Consulting Rooms	P	P	X	SA	SA	X	SA	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Day Care Centre	P	AA	X	SA	SA	X	SA	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Detention Centre	X	X	X	X	X	X	X	SA	X	X	X	X	X	X	X	X	X	GRV Commercial
Education Establishment	P	AA	X	SA	SA	AA	AA	X	X	AA	AA	AA	X				X	GRV Commercial
Hospital	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Kennels/Catery	X	X	X	X	X	SA	SA	AA	X	SA	SA	SA	X				X	GRV Commercial
Kindergarten	AA	AA	X	SA	SA	X	X	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Medical Centre	P	P	X	SA	SA	X	P	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Public Amusement	P	AA	AA	X	X	X	SA	X	SA	X	X	X	X	X	X	X	X	GRV Commercial
Public Worship	P	X	X	SA	SA	X	X	X	X	X	X	X	X	X	X	X	X	GRV Commercial
Radio & TV Installation	SA	AA	X	SA	SA	AA	AA	AA	X	AA	AA	AA	X				X	GRV Commercial
Veterinary Consulting Room or Hospital	AA	X	X	X	X	AA	AA	AA	X	X	X	X	X	X	X	X	X	GRV Commercial
INDUSTRIAL																		
Abattoir	X	X	X	X	X	X	X	SA	X	AA	SA	X	X	X	X	X	X	GRV Industrial
Boat Building Facility	X	X	X	X	X	P	SA	X	AA	X	X	X	X	X	X	X	X	GRV Industrial
Factory Units	X	X	X	X	X	P	P	AA	AA	X	X	X	X	X	X	X	X	GRV Industrial
Fuel Depot	X	X	X	X	X	AA	AA	AA	AA	X	X	X	X	X	X	X	X	GRV Industrial
Industry: General	X	X	X	X	X	AA	AA	X	X	X	X	X	X	X	X	X	X	GRV Industrial
Light	X	X	X	X	X	P	AA	AA	AA	X	X	X	X	X	X	X	X	GRV Industrial
Service	X	X	X	X	X	P	AA	AA	AA	X	X	X	X	X	X	X	X	GRV Industrial
Extractive	X	X	X	X	X	X	X	SA	X	AA	AA	X	X	X	X	X	X	GRV Industrial
Hazardous	X	X	X	X	X	X	X	SA	X	X	X	X	X	X	X	X	X	GRV Industrial
Noxious	X	X	X	X	X	X	X	SA	X	X	X	X	X	X	X	X	X	GRV Industrial
Cottage	AA	X	AA	AA	AA	AA	AA	AA	AA	AA	AA	SA	SA				SA	GRV Industrial
Rural	X	X	X	X	X	X	X	P	AA	P	SA	SA	X				X	GRV Industrial
Motor Vehicle Repair	AA	AA	X	X	X	P	P	AA	AA	X	X	X	X	X	X	X	X	GRV Industrial
Motor Wrecking	X	X	X	X	X	AA	X	X	X	X	X	X	X	X	X	X	X	GRV Industrial
Salvage Yard	X	X	X	X	X	AA	X	X	X	X	X	X	X	X	X	X	X	GRV Industrial
Transport Depot	X	X	X	X	X	AA	X	AA	AA	X	SA	X	X				X	GRV Industrial
RURAL																		
Airfield	X	X	X	X	X	X	X	X	X	AA	AA	X	X				X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Aquaculture	X	X	X	X	X	SA	X	AA	X	SA	SA	SA	X				X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Equestrian Centre	X	X	X	X	X	X	X	X	X	P	AA	SA	X				X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Intensive Agriculture	X	X	X	X	X	X	X	X	X	P	P	P	X				X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Milk Depot	X	X	X	X	X	AA	P	P	X	AA	SA	SA	X				X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy

PREDOMINANT USES TO BE LIMITED TO THOSE SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2 OF THE TPS NO. 7.

PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS	ZONING AS PER THE TOWN PLANNING SCHEME NO. 7 KUNUNURRA AND ENVIRONS																RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT		
	1 TOWN CENTRE	2 LOCAL CENTRE	3 TOURIST	4 RESIDENTIAL	5 RESIDENTIAL DEVELOPMENT	6 LIGHT INDUSTRY	7 MIXED BUSINESS	8 RURAL INDUSTRY	9 COMPOSITE INDUSTRY	10 GENERAL RURAL	11 RURAL AGRICULTURE 1	12 RURAL AGRICULTURE 2	13 RURAL LIVING	14 SPECIAL SITE	15 SETTLEMENT	16 RURAL SMALLHOLDING			
RURAL																			
Piggery	X	X	X	X	X	X	X	X	X	AA	AA	X	X	PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2 OF THE TPS NO. 7.	PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.	X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy		
Poultry Farming	X	X	X	X	X	X	X	SA	X	AA	AA	SA	X			X	X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy	
Private Recreation	AA	AA	AA	X	X	X	AA	X	X	X	X	X	X			X	X	X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Public Recreation	P	P	P	P	P	P	P	P	X	P	P	P	P			P	P	P	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Rural Pursuit	X	X	X	X	X	X	X	X	X	P	P	P	SA			SA	SA	SA	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Stable	X	X	X	X	X	X	X	AA	X	P	P	P	P			P	P	P	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Zoological Gardens	X	X	X	X	X	X	X	X	X	AA	AA	SA	X			X	X	X	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE	ZONING AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE							RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT
	1 TOWN CENTRE	2 RESIDENTIAL	3 INDUSTRIAL	4 SPECIAL RURAL	5 RURAL/PASTORAL	6 SPECIAL SITE	7 SETTLEMENT	
COMMERCIAL								
Amusement Facility	AA	X	X	X	X			GRV Commercial
Car Park	P	AA	P	AA	AA			GRV Commercial
Dry Cleaning Premises	AA	X	P	X	X			GRV Commercial
Fast Food Outlet	P	X	X	X	X			GRV Commercial
Funeral Parlour	SA	X	AA	X	X			GRV Commercial
Health Studio	AA	X	AA	X	X			GRV Commercial
Home Occupation	AA	AA	AA	AA	AA			GRV Commercial
Hotel	AA	X	X	X	X			GRV Commercial
Laundromat	AA	X	P	X	X			GRV Commercial
Motel	AA	X	X	X	X			GRV Commercial
Motor Vehicle or Marine Sales Premises	AA	X	X	X	X			GRV Commercial
Motor Vehicle Hire	AA	X	P	X	X			GRV Commercial
Night Club	AA	X	P	X	X			GRV Commercial
Office	P	AA	IP	IP	IP			GRV Commercial
Office - Professional	P	X	X	X	X			GRV Commercial
Reception Centre	P	X	X	X	X			GRV Commercial
Restricted Premises	AA	X	AA	X	X			GRV Commercial
Restaurant	P	X	X	X	X			GRV Commercial
Service Station	SA	X	AA	X	X			GRV Commercial
Shop	P	SA	AA	X	X			GRV Commercial
Showroom	P	X	P	X	X			GRV Commercial
Tavern	AA	X	X	X	X			GRV Commercial
Warehouse	AA	X	P	X	X			GRV Commercial
PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2 OF THE TPS NO. 7.								
PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.								

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE	ZONING AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE							RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT
	1 TOWN CENTRE	2 RESIDENTIAL	3 INDUSTRIAL	4 SPECIAL RURAL	5 RURAL/PASTORAL	6 SPECIAL SITE	7 SETTLEMENT	
RESIDENTIAL								
Aged & Dependent Persons Dwelling	AA	AA	X	X	X			GRV Residential
Caretaker's Dwelling	IP	X	IP	IP	IP			Ancillary Use. Refer to the predominant use of the land for alignment.
Grouped Dwelling	P	AA	X	X	X			GRV Residential
Multiple Dwelling	P	AA	X	X	X			GRV Residential
Residential Building	AA	AA	X	X	X			GRV Residential
Single House	AA	P	X	P	P			GRV Residential
COMMUNITY								
Civic Building	P	AA	X	X	X			GRV Commercial
Club Premises	AA	X	SA	AA	AA			GRV Commercial
Consulting Rooms	P	SA	SA	AA	X			GRV Commercial
Day Care Centre	P	SA	X	SA	X			GRV Commercial
Educational Establishment	P	X	AA	X	X			GRV Commercial
Fire Brigade Depot	P	X	P	P	X			GRV Commercial
Hospital	SA	SA	X	X	X			GRV Commercial
Kennels/Cattery	X	X	AA	SA	SA			GRV Commercial
Kindergarten	P	SA	X	X	X			GRV Commercial
Medical Centre	P	SA	X	X	X			GRV Commercial
Public Utility	P	P	P	P	P			GRV Commercial
Public Worship	P	SA	X	X	X			GRV Commercial
Radio & TV Installation	SA	P	AA	AA	AA			GRV Commercial
Veterinary Consulting Room or Hospital	SA	X	AA	X	AA			GRV Commercial
INDUSTRIAL								
Fuel Depot	X	X	P	X	X			GRV Industrial
Industry: General	X	X	P	X	X			GRV Industrial
Light	SA	X	P	X	X			GRV Industrial
Service	SA	X	P	X	X			GRV Industrial
Extractive	X	X	X	X	SA			GRV Industrial
Hazardous	X	X	SA	X	X			GRV Industrial
Cottage	AA	AA	AA	AA	AA			GRV Industrial
Motor Vehicle Repair	SA	X	P	X	X			GRV Industrial
Motor Wrecking	X	X	AA	X	X			GRV Industrial
Salvage Yard	X	X	P	X	X			GRV Industrial
Transport Depot	X	X	P	X	X			GRV Industrial

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PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.

LAND USES AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE	ZONING AS PER THE TOWN PLANNING SCHEME NO. 6 WYNDHAM TOWNSITE							RATING DIFFERENTIAL CATEGORY ALIGNED TO PREDOMINANT LAND USE &/OR ZONE. IF LAND IS UNDEVELOPED, THE RATING CATEGORY WILL BE GRV OTHER VACANT
	1 TOWN CENTRE	2 RESIDENTIAL	3 INDUSTRIAL	4 SPECIAL RURAL	5 RURAL/PASTORAL	6 SPECIAL SITE	7 SETTLEMENT	
RECREATION								
Equestrian Centre	X	X	X	P	P	PREDOMINANT USES TO BE LIMITED TO THAT SPECIFICALLY MARKED ON THE SCHEME MAP OR LISTED IN APPENDIX 2 OF THE TPS NO. 7.	PREDOMINANT USES TO BE LIMITED TO THOSE INCLUDED IN A COMMUNITY LAYOUT PLAN ENDORSED BY THE COMMUNITY, THE COUNCIL AND THE WA PLANNING COMMISSION.	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Private Recreation	AA	X	SA	AA	AA			Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Public Amusement	AA	P	X	P	P			Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
Public Recreation	P	P	P	P	P			Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy
RURAL								
Rural Pursuit	X	X	X	P	P	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy		
Stable	X	X	X	P	AA	Rating Differential Category Determined by Zone and/or a Combination of Zone and Land Use In Accordance with the Strategic Rating Policy		

13.2 INFRASTRUCTURE

13.2.1 East Kimberley Regional Airport Proposed Runway Extension Business Case

DATE:	23/06/2015
PROPONENT:	Shire Wyndham East Kimberley
LOCATION:	East Kimberley Regional Airport
AUTHOR:	Peter Kerp, manager Engineering Services
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	CM.16.152
ASSESSMENT NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

To inform Councillors of the intention to engage an engineering consultant to investigate and provide a business case report supporting the feasibility of extending the existing runway 12/30 at the East Kimberley Regional Airport located in Kununurra. The proposed extension of 600m and strengthening the existing taxiways and passenger terminal apron is proposed to accommodate larger aircraft such as B737 and A320.

BACKGROUND

Council at its meeting of the 28 April 2015 was advised under the item 2014/15 Mid-year Budget Review that there were movements in expenditure worth noting which included:

The Airport Runway Extension which was reduced by \$150,000 as there is no grant funding available at this stage. The assessment and preparation of a business case for this project is expected to commence in June - July and is able to be accomplished within the remaining \$150,000 budget.

STATUTORY IMPLICATIONS

Local Government Act 1995

3.57. Tenders for providing goods or services

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

Local Government (Functions and General) Regulations 1996

Part 4

Division 2

11. When tenders have to be publicly invited

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.*

- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
- (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;*

Regulation 11 (2) (b) allows local governments to purchase any value of goods or services through the Western Australian Local Government Association (WALGA) Preferred Supplier panel by seeking quotes from suppliers on that panel. In this instance, the Shire utilised the WALGA Preferred Supplier Panel No. 033_13 Roadbuilding Materials and Related Services

POLICY IMPLICATIONS

The Officer's recommendation in relation to this matter is in accordance with Council's CP/FIN-3204 Purchasing Policy. The Department of Local Government and Communities has advised that as the procurement was undertaken through WALGA e-Quotes the procurement is exempt under the provisions of the Local Government (Functions and General) Regulations 1996 Act

FINANCIAL IMPLICATIONS

GL 04120740 budget allocation \$150,000 (from the Airport Reserve)
Expenditure to date \$5,650, leaving a balance of \$144,350
GHD Lump Sum Price to undertake the investigation is \$140,470

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.3: Facilities are appropriate for their intended purpose and factor in whole of life costing and maintenance

Strategy 2.3.2: Plan, design and budget for sustainable infrastructure

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and has included:

COMMENT

In accordance with the Shire's Purchasing policy, the WALGA e-Quote facility was utilised to identify a competent and experienced engineering consultancy to provide a business case and undertake an investigation into the extension of the existing airport runway by 600 m including strengthening the existing taxiways and passenger terminal apron to accommodate Code 4C (B737 and A320) aircraft.

Ten engineering consultancies were selected from the WALGA Preferred Suppliers Panel of which two responses were received by the deadline of 15 May 2015. GHD has been selected as the preferred consultancy with a lump sum price of \$140,470 ex GST.

The runway investigation and business case report will provide an opportunity and substantial background supporting documentation for the Shire to submit an application for grant funding through the National Stronger Regions Fund (NSRF) which is a new program to promote economic development in Australia's regional areas.

The Federal Government is providing \$1 billion over five years commencing in 2015/16 to fund priority infrastructure, with grants up to a maximum of \$10 million available, on a dollar for dollar basis.

Currently Round 2 of the NSRF programme closes on 31 July 2015, a deadline that the Shire cannot meet. Decisions on further Rounds will be determined by the Federal Government subject to the outcomes of Rounds One and Two. All NSRF funded projects must be completed on or before 31 December 2019.

It is necessary to undertake this business case study now in order to be prepared for funding opportunities as they arise. Funding time frames almost invariably do not allow sufficient time for business case studies to be prepared between when funding opportunities are announced and when funding submissions close.

From Attachment 1 (Previous Airport Studies) it can be seen that various studies have been conducted at the airport site. One of the studies by Connell Wagner Consulting Engineers May 1998 produced preliminary design plans for the extension of the runway by some 610m length at its northern end. The plan was an engineering design drawing without an investigation into the ground soil conditions which would determine the thickness of the runway pavement to accommodate 100t aircraft.

The Connell Wagner preliminary design showed a 2 coat bitumen spray seal wearing course overlaid on 300mm depth of selected base course material overlaid on 600mm depth selected imported fill material. The existing runway pavement is constructed on 1.1m depth of varying rock sizes blended with sand material. The runway has had 5 bitumen spray seals in its lifetime since its construction in the early 1970's and is currently being overlaid with 60mm nominal depth of high strength high fatigue resistant hot mix asphalt.

It is clear from the studies conducted over the past 2 decades that an investigation is warranted on the ground soil conditions to determine a runway pavement extension that is suitable to accommodate the bigger and heavier aircraft. Economic data and drivers have changed considerably since the Department of Transport and Commerce Business Case Report which was undertaken in May 1990. Current economic information will be required to present a Business Case in the National Stronger Regions Fund that stacks up in the current economic climate.

ATTACHMENTS

Attachment 1 - List of Consultant Studies Carried Out at Kununurra Airport

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council notes the Chief Executive Officer's intention to appoint GHD Consulting Engineers for the Lump Sum price of \$140,740.00 ex GST in accordance with the current budget to:

1. Prepare a Business Case to support grant opportunities including an application to a future round of the National Stronger Regions Fund;
2. Investigate the ground soil conditions for the proposed runway extension and associated taxiways and passenger terminal apron at East Kimberley Regional Airport to determine their structural adequacy to accommodate B737 and A320 aircraft.

COUNCIL DECISION

Minute No.10982

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council notes the Chief Executive Officer's intention to appoint GHD Consulting Engineers for the Lump Sum price of \$140,740.00 ex GST in accordance with the current budget to:

- 1. Prepare a Business Case to support grant opportunities including an application to a future round of the National Stronger Regions Fund;**
- 2. Investigate the ground soil conditions for the proposed runway extension and associated taxiways and passenger terminal apron at East Kimberley Regional Airport to determine their structural adequacy to accommodate B737 and A320 aircraft.**

Carried Unanimously 9/0

Date	Title	Company/Author	Description/Purpose
Circa-84	Kununurra Airport Reliminary Financial Analysis and Basis for Discussion	Transport Commission	Developed to assist SWEK during the proposed Transfer of Control.
Aug-87	Kununurra Cost Recovery Study	Travers Morgan	Recommend basic fee structures following the Transfer of Control.
Nov-87	Clay Soils of Kununurra WA	Curtin University / Clive Scott	A case study into the formation of holes (gilgai, crabhole, sinkhole) on the runway strip at Kununurra Aerodrome.
Nov-87	Kununurra Airport Upgrading Study	Airport Consulting and Construction Australia	Examines the history of Kununurra Aerodrome, aircraft and passenger growth patterns and examines the alternative aerodrome development options to meet the forecast traffic.
May-90	Kununurra Airport Business Plan	Department of Transport & Communication	Desk-top evaluation of pavement suitability for occasional operations by 737-300, A320-200 aircraft.
Aug-92	Kununurra Airport Pavement Strength Evaluation	Connell Wagner	Pavement strength evaluation of Runway 12/30, Taxiways A,B and F and the RPT Apron. Preliminary design of runway extension north-western end by 631m x30m - (not to be used for construction) - no geotechnical investigation undertaken of in situ ground conditions - proposed preliminary design shows double-double bitumen spray seal on 300mm compacted suitable base course material on selected 600mm imported fill
May-98	Kununurra Airport Upgrade Stage 1 - Runway Extension	Connell Wagner	Investigate the current position and to provide an overview of possible future directions of the Kununurra Airport.
Sep-00	Kununurra Airport Business Plan	SWEK	Developed to assist SWEK in achieving improvements in the operation of Kununurra Airport and provide a framework for determining the Airport's strategic direction.
Mar-03	Kununurra Airport Business Plan	Stamfords	Review the current airspace (within 20 Nautical miles) architecture, procedures or the services and facilities provided by air navigation service providers.
Sep-08	Aeronautical Study Kununurra Aerodrome	Strategic Airspace	Determine the Pavement Concession Number of Runway 12/30, Taxiway A, B & C.
Sep-09	Kununurra Airport Pavement Concession Number Assessment	Fugro PSM	Provide potential timetable, passenger demand and operating revenue.
Dec-09	KNX - ASP Air Service Feasibility Study	ACIL Tasman	To determine if the seasonally changing groundwater table is contributing to the runway and runway strip failures
May-10	Hydrology Study	URS	To develop Australian Noise Exposure Forecast for EKRA for inclusion in the Master Plan.
Sep-12	EKRA 2036/37 ANEF	Rehbein Airport Consulting	Provides a focussed framework for development over the next 10 years and strategically beyond 10 years, as far as 25 years.
Jan-13	EKRA Airport Master Plan	Rehbein Airport Consulting	Preliminary geotechnical investigation of the reactive clays and the development of crab holes on the runway strip.
Feb-14	Kununurra Airport Report on Preliminary Gilgae Investigation	GHD	A full pavement strength evaluation on Runway 12/30 including assessment of an asphalt resurfacing and pavement suitability for B737 and A320 operations.
Feb-14	EKRA Runway 12/30 Pavement Strength Evaluation Report	GHD	

13.2.2 Proposed Second Bitumen Spray Seal Application – Ord Stage 2 Expansion

DATE:	23/06/2015
PROPONENT:	Shire Wyndham East Kimberley
LOCATION:	Ord Stage 2 Expansion
AUTHOR:	Peter Kerp, Manager Engineering Services
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	N/a
ASSESSMENT NO:	N/a
DECLARATION OF INTERESTS:	Nil

PURPOSE

To seek Council's approval to expend reserve funds to undertake the second coat seal application on the Ord East Kimberley Stage 2 Expansion Project roads. It is proposed that the works be undertaken concurrently with Main Roads proposed program to spray seal sections of Victoria Highway and Great Northern Highway in the latter half of 2015 and to utilise the bitumen spray seal supplier appointed by Main Roads WA Kimberley Region.

BACKGROUND

The Ord East Kimberley Expansion Project works included the construction of roads, drains and irrigation channels, of which the roads and associated drainage become Shire assets.

The Shire confirmed acceptance of the care, control and maintenance of Moonamang Road, Minjiljirrga Lane, Jandami Lane, Wooljim Lane and associated drainage works in each road corridor, effective 25 October 2013 subject to receipt of the following information:

1. Quality Control Records;
2. As Constructed Drawings associated with the Shire assets;
3. The contract technical specification for roadwork's and drainage.

Council at its Ordinary Council Meeting of 29 April 2014 resolved:

COUNCIL DECISION

Minute No. 10384

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council advises the Department of Lands that the Shire supports dedication once the farmland, that this road services, becomes rateable at comparable rates to existing RA1 farmland associated with the Ord East Kimberley Expansion Project, namely Moonamang Road, Minjiljirrga Lane, Jandami Lane and Wooljim Lane.

Carried Unanimously 9/0

Council formally advised in March 2015 by the State Solicitor's Office that the Shire, under section 28 (1) (b) of the Land Administration Act, was now responsible for the care, control

and management of the roads created from Ord Stage 2 viz. Moonamang Road, Minjiljirrga Lane, Jandami Lane and Wooljim Lane..

Officers from the Shire and Landcorp had been in discussions over the many months in 2014 in relation to the future seal of the roads within the Goomig Farmlands associated with the Ord Expansion Project. LandCorp have sealed roads in the Goomig Farmlands with a 10mm primerseal which would generally last for 3-5 years. LandCorp had budgeted to apply a 14mm final seal coat in 2015, although it was anticipated that the short term traffic volumes were low and therefore it was technically preferable to delay the 14mm seal until it's required in 3-5 years' time. This would achieve the optimum life from the 10mm primerseal and directly extend the time and expenditure before a further reseal was required in 20+ years' time.

LandCorp therefore proposed to pay to the Shire the amount estimated for the 14mm future seal as its full and complete contribution in 2014 (with interest accruing until 2015) which was to be held in a reserve account and only utilised for this purpose, to which the Council agreed to.

Council resolved at Special Council meeting 2 September 2014 resolved:

COUNCIL DECISION

Minute No. 10550

Moved: B Robinson

Seconded: Cr K Wright

That Council, in accordance with section 6.11 of the *Local Government Act 1995*, approves:

2. The creation of a Goomig Farmlands Roads Reserve for the purpose: "to provide for the second coat seal of roads within the Goomig Farmlands"

Carried Unanimously 9/0

STATUTORY IMPLICATIONS

The Local Government Act 1995 and Local Government (functions and General) Regulations 1996 apply to the procurement.

3.57. Tenders for providing goods or services

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

6.8. Expenditure from municipal fund not included in annual budget

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
 - (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
 - (b) *is authorised in advance by resolution*;* or
 - (c) *is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

11. When tenders have to be publicly invited

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
 - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
 - (b) *the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA; or*
- (e) *the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or ...*

POLICY IMPLICATIONS

The Officer's recommendation in relation to this matter is in accordance with Council's CP/FIN-3204 Purchasing Policy.

FINANCIAL IMPLICATIONS

\$2,850,000 was paid by Landcorp to the Shire in 2014 to cover the cost of application of a second coat bitumen spray seal to all roads created as part of the Ord Stage 2 Project. The current reserve balance stands at \$2,889,313.36.

The estimated cost of the proposed sealing work is expected to fall within the current budget allocation. These estimated costs are inclusive of all materials, plant, accommodation, mobilisation, traffic management and reinstatement of all pavement line markings.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.3: Facilities are appropriate for their intended purpose and factor in whole of life costing and maintenance

Strategy 2.3.2: Plan, design and budget for sustainable infrastructure

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

All roads associated with the Ord East Kimberley Expansion Project are accessible to the driving public and are public roads. Easements created over the irrigation structures constructed under public roads which convey water to farmlands will be the responsibility of the agency or party named in the vesting order. These irrigation easements will not be managed by the Shire and therefore will not be a Shire responsibility.

It was deemed the responsibility of the developer (Landcorp) to repair any defects resulting from faulty workmanship or defective materials on all roads and associated works for a period of 12 months from the date of practical completion, referred to as the defects Liability period. These defects have since been repaired by Landcorp's Contractor viz. leaking irrigation pipes under public roads.

There is approximately 38.59km of roads to be sealed varying from 10m width on Moonamang Road to 8m on the minor access roads. In addition to this it is proposed to seal approximately 3,400 m² of Mills Road, 1,200 m² of Research Station Road and 925 m² of Egret Close using the same contractor.

The Shire had also given an undertaking to Landcorp to consider the application of the second 14mm sealing aggregate 2 to 3 years after practical completion was achieved on 23 October 2013.

There is an opportunity for the Shire to include the sealing application on Ord Stage 2 roads by utilising the tender package proposed by Main Roads WA for supply and lay of bitumen and aggregate application aimed for around October 2015. The combination of the Shire and Main Roads sealing packages will provide an opportunity to gain significant reduction in costs if the Shire were to do the works in conjunction with Main Roads because the two sealing packages added together represent a significant contract.

It is proposed that the works will be undertaken by Main Roads WA as a separable portion of their contract with their contracted supplier. The works will be provided as a project by Main Roads WA including project management.

ATTACHMENTS

There are no attachments associated with this report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council

1. Approves the expenditure of up to \$2,889,313.36 plus any additional interest earned, to fund the second coat seal of approximately 38.59km of roads in the Ord East Kimberley Stage 2 Expansion Project.
2. Acknowledges that these funds will be transferred from the Goomig Farmlands Roads Reserve and the project will be incorporated into the 2015/16 budget.
3. Approves the utilisation of the Main Roads Western Australia contractor as part of the 2015/16 Works Program to seal approximately 3,400 m² of Mills Road, 1,200 m² of Research Station Road and 925 m² of Egret Close.

COUNCIL DECISION

Minute No.10983

Moved: Cr D Spackman

Seconded: Cr K Wright

That Council suspends Standing Orders 7.5 Limitation of Number of Speeches.

Carried Unanimously 9/0

Standing Orders 7.5 Limitation of Number of Speeches suspended at 6.07pm

COUNCIL DECISION

Minute No.10984

Moved: Cr S Cooke

Seconded: Cr K Wright

That Council resumes Standing Orders 7.5 Limitation of Number of Speeches.

Carried Unanimously 9/0

Standing Orders 7.5 Limitation of Number of Speeches resumes at 6.15pm

MOTION

Cr K Wright moves that points 1 and 2 be approved by Council and point 3 in the Officer's Recommendation (Item 13.2.2 Proposed Second Bitumen Spray Seal Application – Ord Stage 2 Expansion) be deferred to a briefing because of the non urgency.

COUNCIL DECISION

Minute No.10985

Moved: Cr K Wright

Seconded: Cr S Cooke

That points 1, 2 be approved by Council and point 3 in the Officer's Recommendation (Item 13.2.2 Proposed Second Bitumen Spray Seal Application – Ord Stage 2 Expansion) be deferred to a briefing because of the non urgency.

Carried Unanimously 9/0

Reason: Council requires further information due to a lack of information on point 3 of the Officer's Recommendation.

13.2.3 Appointment of Authorised Officers

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	N/A
AUTHOR:	Paul Wilson, Senior Ranger & Emergency Services Coordinator.
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	N/A
ASSESSMENT NO:	N/A
DECLARATION OF INTERESTS:	Director Infrastructure Nil, Senior Ranger & Emergency Services Coordinator Impartiality Interest due to being the author of this document.

PURPOSE

For Council to consider the authorisation of Paul Wilson, the Shire of Wyndham East Kimberley's Senior Ranger & Emergency Services Coordinator & Joseph Stabler, Ranger under the following Acts & Regulations.

1. Dog Act 1976 & Dog Act Regulations 2013
2. Shire of Wyndham East Kimberley Local Laws
3. Cat Act 2011 & Cat Act Regulations 2012
4. Control of Off Road Vehicles Act 1978 & Regulation 1979
5. Local Government Act 1995
6. Local Government Act 1995 (Misc Provisions) Ranger & Pound keeper
7. Dog Registration Officer
8. Cat Registration Officer

For Council to also consider authorising the following officer's to undertake the collection of a prescribed fee for registration & to keep an accurate record of registration details *pursuant section 14 of the Dog Act 1976 & Section 12 of Cat Act 2011*

1. Barbara Venn – Wyndham Officer Coordinator
2. Darcey Yates – Wyndham Community Resource
3. Tammy McCoy – Wyndham Customer Service Officer
4. Paul Tily – Debtors Officer
5. Victoria Nakamya – Creditors Officer
6. Danielle King – Team Leader Customer Services & Records Management
7. Leticia Humphries - Records Officer
8. Frances Edmeades – Customer Services Officer

BACKGROUND

The Shire's Rangers and other employees who receipt Dog and Cat registrations are required to be authorised by Council under the relevant Acts and Regulations. Paul Wilson was recently appointment as the Senior Ranger & Emergency Services Coordinator. Joseph Stabler is employed as Ranger. These positions are required to carry out the Shire's obligations in Local Law Enforcement.

STATUTORY IMPLICATIONS

Dog Act 1976

10AA. Delegation of local government powers and duties

- (1) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.
- (2) The delegation must be in writing.
- (3) The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.

Cat Act 2011

12. Register of cats

- (1) A local government is to keep an accurate and up-to-date register of cats registered by the local government.
- (2) The register is to be kept in such form as the local government thinks fit.
- (3) The local government is to record in the register the information prescribed in respect of each cat registered by the local government.
- (4) The local government may cause any error in, or omission from, the register to be corrected.

Control of Off Road Vehicles Act 1978

38. Authorised officers, who are, functions of etc.

- (3) A local government may by resolution appoint —
 - (a) any employee of the local government; and
 - (b) where the Minister by notice published in the *Government Gazette* authorises the local government to do so, any member of the council of that local government,

to be an authorised officer for the purposes of this Act either in respect of the whole of its district or any part thereof defined in the appointment.

- (4) A person who is appointed as an authorised officer pursuant to subsection (2) or subsection (3) —
 - (a) has within the area of jurisdiction entrusted to him by the appointment the duties and powers of an authorised officer under this Act, and may exercise such powers within that area; and
 - (b) may exercise the powers conferred upon him by this Act in relation to any person or vehicle which he has reason to believe is concerned in a

contravention of this Act notwithstanding that such person or vehicle is not then within the area of jurisdiction entrusted to him if that person or vehicle was pursued from that area or is known to have been in that area at the time of the contravention; and

- (c) may, for the purposes of this Act in the course of his duty, enter on any land or, using only such force as is necessary, may enter a vehicle for the purpose of removing it; and
- (d) shall be issued with a certificate of his appointment as an authorised officer in the prescribed form, evidencing the area of jurisdiction entrusted to him under this Act, which he shall, on reasonable demand, produce for inspection by any person.

POLICY IMPLICATIONS

No policy implications associated with this report

FINANCIAL IMPLICATIONS

No financial implications associated with this report

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

Community consultation is not required in relation to this item.

COMMENT

The Shire of Wyndham is Regulatory Services team is committed to creating an environment that promotes voluntary compliance through education and enforcement. This can be achieved through good governance with the assurance of the Shire's statutory & Legislative requirements are for filled.

ATTACHMENTS

N/A

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION

That Council;

1. Delegate its powers pursuant section 10AA *Dog Act 1976* to the Shire's Chief Executive Officer Carl Askew, intern a sub delegation can be given to Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger to perform its functions.
2. Delegate its powers pursuant section 44(1) & 45(1) of the *Cat Act 2011* to the Shire's Chief Executive Officer, intern a sub delegation can be given to Paul Wilson Senior Ranger & Emergency Services Coordinator and Joseph Stabler Ranger to perform its functions.

COUNCIL DECISION

Minute No.10986

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council;

- 1. Delegate its powers pursuant section 10AA *Dog Act 1976* to the Shire's Chief Executive Officer Carl Askew, in turn a sub delegation can be given to Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger to perform its functions.**
- 2. Delegate its powers pursuant section 44(1) & 45(1) of the *Cat Act 2011* to the Shire's Chief Executive Officer, in turn a sub delegation can be given to Paul Wilson Senior Ranger & Emergency Services Coordinator and Joseph Stabler Ranger to perform its functions.**

Carried Unanimously 9/0

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECCOMENDATION

That Council;

1. Authorises Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger to perform the following functions.
 1. Shire of Wyndham East Kimberley Local Laws
 2. Local Government Act 1995
 3. Local Government Act 1995 (Misc Provisions) Ranger & Pound keeper
 4. Dog Registration Officer
 5. Cat Registration Officer
2. Appoints Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger pursuant 38(3) of the *Control of off Road Vehicles Act 1978*.

3. Authorises the following staff as Dog Registration Officers pursuant section 14 Dog Act 1976 & section 12 Cat Act 2011

1. Barbara Venn – Wyndham Officer Coordinator
2. Darcey Yates – Wyndham Community Resource Centre Officer
3. Tammy McCoy – Wyndham Customer Service Officer
4. Paul Tily – Debtors Officer
5. Victoria Nakamya – Creditors Officer
6. Danielle King – Team Leader Customer Services & Records Management
7. Leticia Humphries - Records Officer
8. Frances Edmeades – Customer Services Officer

COUNCIL DECISION

Minute No.10987

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council;

1. Authorises Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger to perform the following functions.

1. Shire of Wyndham East Kimberley Local Laws
2. Local Government Act 1995
3. Local Government Act 1995 (Misc Provisions) Ranger & Pound keeper
4. Dog Registration Officer
5. Cat Registration Officer

2. Appoints Paul Wilson Senior Ranger & Emergency Services Coordinator & Joseph Stabler Ranger pursuant 38(3) of the *Control of off Road Vehicles Act 1978*.

3. Authorises the following staff as Dog Registration Officers pursuant section 14 Dog Act 1976 & section 12 Cat Act 2011

1. Barbara Venn – Wyndham Officer Coordinator
2. Darcey Yates – Wyndham Community Resource Centre Officer
3. Tammy McCoy – Wyndham Customer Service Officer
4. Paul Tily – Debtors Officer
5. Victoria Nakamya – Creditors Officer
6. Danielle King – Team Leader Customer Services & Records Management
7. Leticia Humphries - Records Officer
8. Frances Edmeades – Customer Services Officer

Carried Unanimously 9/0

13.3 COMMUNITY DEVELOPMENT

13.3.1 Draft Policy – Leasing of Council Managed/Owned Land – Commercial

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Jennifer Ninyette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	CM.11.2
ASSESSMENT NO:	NA
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to endorse a new draft Council Policy CP_PMG-3781 Leasing of Council Managed/Owned Land – Commercial for advertising purposes.

BACKGROUND

CP_PMG-3780 Leasing of Council Managed Reserve Land was adopted in May 2012. This policy informed the processes for the issuing of all Shire leases, both community and commercial (although was primarily directed at Community), as well as the content of these leases.

Through this review process it was identified that as the objectives and processes of community and commercial leases are very different from each other, separate policies would be drafted for community and commercial leases. The reviewed community leasing policy was endorsed for advertising by Council at the April 2015 Ordinary Council Meeting (OCM), subsequently advertised for public comment, and is intended to be adopted with minor amendments at the June Ordinary Council Meeting.

A new draft policy for commercial leases has been prepared to complement the community leasing policy, and is recommended to be endorsed by Council for public advertisement. A copy of the draft policy CP_PMG-3781 Leasing of Council Managed/Owned Land – Commercial is provided at Attachment 1.

STATUTORY IMPLICATIONS

Local Government Act 1995

3.58. Disposing of property

(1) *In this section —*

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

POLICY IMPLICATIONS

This item seeks to provide a new policy to specifically guide Council in relation to leasing land for commercial enterprises and to complement the draft reviewed CP_PMG-3780 Leasing of Council Managed Reserve Land - Community

FINANCIAL IMPLICATIONS

A key objective of the draft commercial leasing policy is that the Shire does not incur any costs in the development and management of Commercial Leases. Accordingly the draft policy outlines that:

1. The cost of the lease preparation (including advertising costs, valuations, legal fees), stamping and registration are to be met by the lessee, regardless of whether a final lease is agreed to or not; and
2. Rent will be based on a valuation of fair market rent, and subject to CPI review annually.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement will take place in accordance with the Shire's Community Engagement Guidelines and will include:

Public advertisement of the draft CP_PMG-3781 Leasing of Council Managed/Owned Land – Commercial.

COMMENT

The Shire has a variety of different types of commercial leases including:

- Foreshore leases in conjunction with adjoining caravan parks
- Foreshore leases for commercial tourist operators
- Café Lease at the airport
- Leases for car hire company booths (and licences for car hire parking) at the airport
- AirBP Lease.

Given the variety of commercial leases, there is still a requirement for individual leases to be negotiated on a case by case basis; however the draft policy aims to outline and adopt core principles and standard provisions to provide clarity and consistency, and inform decision making in relation to commercial leases.

ATTACHMENTS

Attachment 1 - Draft Policy CP_PMG-3781 Leasing of Council Managed/Owned Land - Commercial

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorse the draft Policy CP_PMG-3781 Leasing of Council Managed/Owned Land – Commercial for public advertisement for a period of 28 days.

AMENDMENT

Cr B Robinson moves the Officer's Recommendation with an amendment to the policy. Section 8.10 is to read: The Lessee is to advise the Shire in writing at least six months prior to the expiry of the lease whether or not a new Lease is requested.

AMENDMENT

Cr D Spackman moves an additional amendment to the policy. Create another dot point (8.14) that says "Leases will only be granted over areas required for exclusive use".

FORESHADOWED MOTION

Cr K Wright foreshadows a motion that the item 13.3.1 Draft Policy – Leasing of Council Managed/Owned Land – Commercial, be deferred to a further workshop.

Cr B Robinson accepts the amendment to his motion from Cr D Spackman.

The motion from Cr B Robinson is considered:

COUNCIL DECISION

Minute No.10988

**Moved: Cr B Robinson
Seconded: Cr S Cooke**

That Council endorse the draft Policy CP_PMG-3781 Leasing of Council Managed/Owned Land – Commercial for public advertisement for a period of 28 days. With the following amendments to the policy:

Section 8.10 is to read: The Lessee is to advise the Shire in writing at least six months prior to the expiry of the lease whether or not a new Lease is requested.

Create another dot point (8.14) that says "Leases will only be granted over areas required for exclusive use".

Carried Unanimously 9/0



POLICY NO	CP/PMG-3781	
POLICY	Leasing of Council Managed/Owned Land - Commercial	
RESPONSIBLE DIRECTORATE	Community Development	
RESPONSIBLE OFFICER	Senior Planning Officer	
COUNCIL ADOPTION	Date:	Resolution No:
REVIEWED/MODIFIED	Date:	Resolution No:
	Date:	Resolution No:
REVIEW DUE	Date:	
LEGISLATION	<i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>Land Administration Act 1997</i> <i>Commercial Tenancy (Retail Shops) Agreement Act 1985</i>	
RELATED POLICIES	CP/PMG-3780 – Leasing of Council Managed Land - Community	
RELATED ORGANISATIONAL DIRECTIVES		

PURPOSE:

This policy applies to all leases between the Shire of Wyndham East Kimberley (Shire) and a private individual or enterprise where the property will be used for commercial activity.

A commercial lease is an agreement between the Shire and an external organisation, business or individual to manage a property or reserve where the property will be used for commercial gain.

The objectives of this policy are to:

- Ensure an open and transparent process when negotiating commercial leases.
- Ensure consistency across the Shire's commercial leases both in the negotiation process and terms of leases.
- Ensure commercial leases provide no commercial advantage, nor disadvantage to the lessee.
- Ensure the Shire does not incur any costs in the development and management of commercial leases.
- Minimise risk to the Shire, financial or litigious, resulting from commercial leases
- Ensure the environmental impact of commercial leases is considered.

DEFINITIONS:

Lease is a grant of interest in land.

Licence is a deed of agreement allowing for occupation of a parcel of land on a non-exclusive use basis. A licence is not an interest in land. As a matter of law, it simply

authorises what would otherwise be a trespass. Licences do not provide the security of tenure offered under a lease agreement and can be cancelled without notice on provision of suitable grounds to do so.

POLICY STATEMENTS:

This policy provides the opportunity for the lessee to provide service(s) to the community and visitors to the Shire of Wyndham East Kimberley. In some cases these services may not otherwise be provided or viable without proximity or access to Shire managed or owned assets, such as portions of the Lake Kununurra Foreshore and East Kimberley Regional Airport.

As minimising financial and litigious risk to the Shire is a key objective of this policy, Commercial leases should include mechanisms and terms to:

- Ensure that Lessees operate as per their permitted use and in accordance with relevant legislation
- Adequately indemnify the Shire, and the Minister for Lands when required.
- Clearly outline maintenance requirements for different types of commercial leases; and
- Ensure that Lessees hold minimum insurance cover for their commercial enterprise.

Standard terms of Shire of Wyndham East Kimberley Commercial Leases are:

1. Permitted Use

Permitted use of a lease should be consistent with the purpose of (and management order for) the reserve land and the zoning of the land.

2. Lease Term

Terms for commercial enterprises are to be negotiated in accordance with current market conditions with a minimum 5 year term in accordance with the Commercial Tenancy (Retail Shops) Agreements Act 1985.

The maximum lease term will be 21 years.

3. Lease Rent

Rent will be based on a valuation of fair market rent.

A CPI rent review will be conducted every year.

4. Development

Authorisation for any proposed development on leased land should be sought from the Shire prior to the submission of formal planning and building permit applications. The prior approval of the Minister for Land will also be required for development on Crown land.

At the conclusion of a lease, any buildings or infrastructure not removed from the lease site will be forfeited and become the property of the Shire, for the disposal or retention at the Shire's discretion and associated costs may be recovered from the Lessee.

5. Maintenance Requirements

The Lessee will be responsible for all maintenance for buildings, infrastructure or fixtures on the lease site unless otherwise negotiated according to the existing condition of the property and the term of the lease.

The Shire will not be responsible for any maintenance for buildings belonging to the Lessee on land only leases. Responsibility for maintenance of buildings owned by the Lessee rests with that owner.

The Shire will be responsible for major structural maintenance or replacement of buildings belonging to the Shire on the proviso that the repairs, maintenance or replacements are not required as a result of any inappropriate actions, or inactions, of the Lessee.

The Shire reserves the right to instruct the Lessee to carry out improvements to any aspect of their leased premises, either with or without buildings, should there arise an issue which may impact negatively upon members of the public, the Lessee or the Shire's management of the leased premises.

6. Risk Management and Insurance

The Shire will ensure that all leases and licences contain appropriate risk management measures including an obligation on the Lessee to:

- Release and indemnify the Shire of Wyndham East Kimberley from all claims resulting from any damage, loss, death or injury in connection with the Shire's property, unless such claims arise out of the Shire's negligence;
- Effect and maintain adequate public liability insurance, noting the interest of the Shire and the Policy must contain a cross liability clause. A minimum cover of \$20 million must be provided, with regular increases in line with normal industry practice.

The Shire will insure all buildings and infrastructure that are the property of the Shire. Costs of insurance premiums may be recovered from the Lessee.

The Shire will not insure buildings or infrastructure built or belonging to the Lessee. Buildings belonging to the Lessee must be covered by comprehensive building insurance with a reputable insurance company.

The Lessee is required to ensure all insurances are in place and will be required to provide to the Shire on request, copies of all insurance policies required under the lease.

7. Kununurra Foreshore

All leases located on the Lake Kununurra Foreshore will consider the recommendations of the Lake Kununurra Foreshore and Aquatic Use Plan Updated 2011 or subsequent document.

This includes the requirement for all foreshore leases to have a 10m buffer zone. In such cases it may be appropriate for the Shire to issue a licence allowing use of this buffer zone without excluding access to others.

8. General

- 8.1. The Lessee will be responsible for all rates, utility charges, taxes and charges against the land.
- 8.2. Cost of the lease preparation (including advertising costs, valuations, legal fees), stamping and registration are to be met by the Lessee, regardless of whether a final lease is agreed to or not.
- 8.3. Lessees are required to comply with all laws and statutory requirements which are imposed throughout the term of the lease.
- 8.4. The Lessee will take out and maintain contents insurance for all fixtures, fittings and chattels contained within the leased premises
- 8.5. The Lessee will hold public liability insurance to a minimum of \$20 million indemnifying the Shire of Wyndham East Kimberley from any loss resulting from the Lessees activities conducted within the leased premises.
- 8.6. Sub-leasing in principal is not supported, however will require the prior permission of the Shire, as well as the Minister for Lands in relation to Crown land.
- 8.7. Final Ministerial Approval will be required for all Crown land leases.
- 8.8. Lessees must have business insurance, public liability and workers compensation insurances as a minimum.
- 8.9. All commercial leases are required to be registered.
- 8.10. The Lessee is to advise the Shire in writing at least six months prior to the expiry of the lease whether or not a new Lease is requested to be negotiated.
- 8.11. At the expiry of the lease, the Lessee may be approved by the Shire to remain in possession of the leased premises. The Lessee will be deemed to be a tenant at will on a month to month basis, up to a maximum of 12 months. Any tenancy at will arrangement in excess of 12 months is subject to Council approval.
- 8.12. Where there is a period between the expiry of a lease and the signing of a new lease, the commencement date of the subsequent lease will be back dated to the date of the expiry of the previous lease.
- 8.13. The commencement date for all new commercial leases will be the date that Council has agreed to enter into lease negotiations, or specifically determined at that time, and must be prior to, or as of, the date of access to or occupation of the premise.

EXPLANATORY NOTES:

This policy outlines standard lease provisions for commercial leases on Shire managed and owned land.

This Policy should be read in conjunction with:

- Local Government Act 1995 and Local Government (Functions and General) Regulations 1996
- Land Administration Act 1997
- Lake Kununurra Foreshore and Aquatic Use Plan
- Shire of Wyndham East Kimberley Property and Public Places Local Law
- Town Planning Scheme No. 6 – Wyndham Townsite
- Town Planning Scheme No. 7 – Kununurra and Environs
- Commercial Tenancy (Retail Shops) Agreement Act 1985

All commercial leasing arrangements will be required to comply with the Local Government Act 1995, Section 3.58 Disposing of property.

Commercial leases on Crown Land require Preliminary Approval from the Minister for Land prior to agreement to lease.

Under the Land Administration Act 1997, the Shire has been granted the care, control and management of numerous parcels of Reserve land which is set aside for various recreational and community purposes, along with the power to lease. The Shire also owns property in freehold and has the power to lease this property.

In some cases properties provide benefits to the wider community when leased to a commercial enterprise, as an example, where the business activity supports tourism. It is also the case that some businesses rely on property that is not available in freehold, for example requiring access to the Lake Kununurra Foreshore.

As well as the community benefit of such businesses operating within the Shire, the income received from the leases provides a funding base for maintenance of services. The commercial value of the leases provides the Shire with revenue that offsets the cost of provision of services to the property as well as nearby public areas. For example all revenue collected from foreshore leases is to be used to maintain the public foreshore and its associated facilities.

RISK:

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

13.3.2 Draft Shire of Wyndham East Kimberley Play Space Plan

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Wayne Richards, Manager Community Services
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PR.10.4
ASSESSMENT NO:	NA
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

For Council to endorse the Draft Shire of Wyndham East Kimberley Play Space Plan for community consultation.

BACKGROUND

The provision of play space can be a contentious issue within any community. Play spaces are nice to have; they have many community benefits, and can often be constructed at a low cost to a Shire if grant funding is available to assist with construction. Play spaces can however, have significant ongoing costs and the provision of large numbers of play spaces may not necessarily increase overall benefit to the community as opposed to fewer, well planned play spaces. For this reason it is good practice to have a strategy regarding the expected service levels of play space.

In July 2004 the Shire adopted a Park Plan that included a review of park provision and recommendations for actions to consolidate what was being provided. This plan is now outdated, a number of the actions within the plan have been completed and guidelines on best practice have changed. In addition, there have also been changes to the Shire's play spaces since the adoption of this plan including the construction of two playgrounds in Lakeside and the construction of a playground at Celebrity Tree Park in Kununurra, as well as the construction of a playground on St Pauls Way in Wyndham.

The provision of play space is part of the broader provision of public open space. There are a range of factors that impact on the level of service provision and the most suitable sites for playgrounds and play spaces such as:

- Pathways and trails
- Parking and transport
- Public facilities including toilets, lighting, sports facilities, drinking water.

The provision of these services also requires a strategic approach that is not covered in this Play Space Plan however, an Integrated Public Open Space Strategy will also be developed encompassing the provision of all public open space. A diagram of how these will align with the Shire's Integrated Planning Framework is included in the draft Plan (Attachment 1, page 2).

Typically an Integrated Public Open Space Strategy would be developed first, however due to available resources and the need for strategic direction regarding playgrounds and play spaces this Plan has been developed first, and will be reviewed following the development of the Integrated Public Open Space Strategy. It is not expected that significant changes will be required at this review.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this report.

POLICY IMPLICATIONS

Community Consultation will take place in accordance with the Shire's Community Engagement Policy CP/GOV-3100 Community Engagement.

FINANCIAL IMPLICATIONS

There may be significant financial implications associated with the adoption of this Plan both in capital works and ongoing operational costs. This expenditure will be scheduled through the Forward Capital Works plan allowing the Shire to control where and when spending on play space will occur.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities

Objective 3.4: Protection and enhancement of community facilities

Strategy 3.4.1: Manage, maintain and upgrade public parks and amenities to ensure they meet community need and are accessible to people of all ages and abilities

COMMUNITY CONSULTATION

Given the significant impact this will have on the future provision of play space, it is imperative that the community input into the direction and strategy within the Plan.

Community Consultation will take place in accordance with the Shire's Community Engagement Policy CP/GOV-3100 Community Engagement. Community engagement will include seeking direct feedback from key stakeholders including parents and children's services organisations in Kununurra and Wyndham.

On an ongoing basis, if adopted, the plan's guidelines require a community engagement plan to be developed in accordance with the Shires Community Engagement Guidelines where any major changes are being made to a play space.

COMMENT

The Draft Shire of Wyndham East Kimberley Play Space Plan will provide clear guidance for the provision and management of play spaces within the Shire. This, in turn will assist in managing community expectations about play space service provision.

The Plan will assist in identifying future play space projects, provide a strategic approach to future works and provide a strong case for any funding requests for these projects. Once the Plan and guidelines are adopted, an action plan will be developed detailing specific recommended actions regarding existing play spaces within the Shire.

ATTACHMENTS

Attachment 1 - Draft Shire of Wyndham East Kimberley Play Space Plan

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council endorse the Draft Shire of Wyndham East Kimberley Play Space Plan for community consultation.

COUNCIL DECISION

Minute No.10989

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council endorse the Draft Shire of Wyndham East Kimberley Play Space Plan for community consultation.

Carried Unanimously 9/0



DRAFT

Shire of Wyndham East Kimberley Play Space Plan 2015

Executive Summary

The recognition of the importance of public open space, parks and playgrounds is evident in the continued investment from the Shire of Wyndham East Kimberley in the development and maintenance of its playgrounds and play spaces.

This strategy will provide:

- An overview of the benefits of the provision of playgrounds and play space.
- Key considerations in the provision of playgrounds and play space.
- Guidelines for the provision of playgrounds within the Shire of Wyndham East Kimberley.

This Plan is to be viewed in the broader context of the Shire's Integrated Public Open Space Planning.

Demographics:

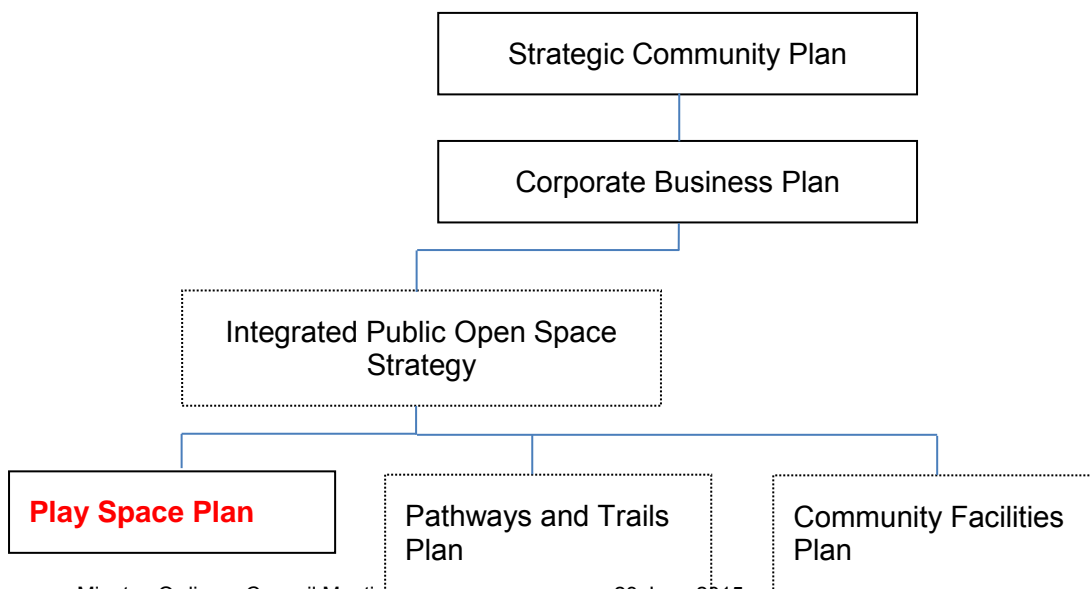
In the 2011 Census, there were 5,525 people in Kununurra (State Suburbs) of these 51.5% were male and 48.5% were female. Aboriginal and Torres Strait Islander people made up 25.8% of the population.

In the 2011 Census, there were 1,003 people in Wyndham (WA) (State Suburbs) of these 51.2% were male and 48.8% were female. Aboriginal and Torres Strait Islander people made up 51.0% of the population.

Age Range	Kununurra	Wyndham
0-4	489	104
5-9	432	101
10-14	387	70
15-19	285	50

<http://abs.gov.au/websitedbs/censushome.nsf/home/quickstats>

The Shire of Wyndham East Kimberley Play Space Plan is an informing plan for the Shire's integrated Planning framework. While several key linking plans are yet to be developed, the Play Space Plan will link with a broader Integrated Public Open Space Strategy.



It is recognised that the implementation of this Plan will require works to a number of existing play spaces within the Shire. As the financial implications will be significant it is recognised that it will not be possible to carry out the works immediately. Recommendations will need to be prioritised and included in forward capital works programs.

What is Play Space?

Definitions:

Playground: For the purpose of this plan, a playground is a play space with recreational equipment provided, typically items such as swings, slides and climbing equipment.

Play Space: An outdoor area provided for the purpose of outdoor play or recreation. This may include ovals, courts, playgrounds and parks. Play spaces where a fee is charged (i.e. swimming pools and their associated facilities) are not included as public play spaces.

Public Open Space: Land that has been reserved for the purpose of formal and informal sport and recreation, preservation of natural environments, provision of green space and/or urban storm water management.

It is essential in reading this document that it is understood that this Plan is specifically addressing designated play space. It is acknowledged that children can and will play in other public open space and this has been considered in developing the guidelines however the play spaces addressed within the Plan are those that are serviced by the Shire for the specific purpose of providing play space.

Purpose:

Playing outside is not just about letting off steam. It is a vital part of childhood that helps children develop physical strength, coordination and balance. It can also provide opportunities for children to learn and develop:

- **Social Skills** - when they play with other children they learn to communicate, share, collaborate and empathise with others.
- **Imagination and creativity** - outside play is often open-ended and children need to be creative about what and how games are played.
- **Thinking and problem solving skills** - as children assess risks and tackle new challenges they learn about having a go, persistence and perseverance and the success those attributes can bring.
- **Sense of self** - as they master new skills and play with other children they improve their competence and confidence in their own physical and social abilities.
- **Sense of connection** - to place, to peers and to their local community and environment.
- **Self-care skills** - managing physical and social challenges helps children to learn about keeping themselves safe.

Kidsafe WA

As stated above, it is important to recognise that the Shire's location and unique landscape provides additional opportunities for play including significant open space with natural features not typically available to residents of other locations. Access to "nature play" areas is increasingly recognised as an important element in childhood development to the point where specifically designed nature play areas are being designed and constructed in many urban areas.

Background:

The Shire currently services and provides a total of 12 designated play spaces, 8 in Kununurra and 4 in Wyndham.

Kununurra

Celebrity Tree Park
Pindan Park
Swim Beach
Nicolson Park
Argentea St Park
White Gum Park
Kununurra Town Oval
Ag Oval

Wyndham

Bessie Wylie Park
Lions Park/Denman St
St Pauls Way
Clarrie Cassidy Oval (Wyndham Oval)

Within these play spaces, there are five (5) playgrounds in Kununurra and four (4) in Wyndham. All of the spaces however (playground equipment or not), are integral to this Plan as the Plan must consider the overall play space provided by the Shire.

There are some play spaces present in the towns that are not included in this Plan. These include spaces at Schools, Child Care Facilities, and within Aboriginal Communities. The Shire also provides playground equipment at both the Kununurra Leisure Centre and Wyndham Swimming Pool however these have not been included in this Plan as users must pay an entry fee to access the facility.

A Shire Parks Plan was adopted in 2004. While the content is now outdated, the document set the direction for the planning and management of Shire Parks and Playgrounds and a number of recommended actions within the plan have been actioned.

What this Plan did not address was the construction of new playgrounds or the tipping points of where a new play space may be required. Therefore where new playgrounds have come about, this has been through opportunity rather than strategy. These opportunities have been as part of land developments in Lakeside and as the result of a community initiative (Celebrity Tree Park) and through grant funding on St Pauls Way in Wyndham.

This said, the number and range of play spaces in both Kununurra and Wyndham do currently provide good coverage and access for residents.

Strategic Implications:

Public parks and amenities are addressed in the Shire of Wyndham East Kimberley's Strategic Community Plan 2012-2022:

3.4 Protection and enhancement of community facilities

3.4.1 Manage and maintain and upgrade public Parks and amenities to ensure they meet community need and are accessible to people of all ages and abilities.

Guiding Information:

Consideration of suitability of play space for age range:

There are no set definitions for the provision of equipment for specific age ranges however the ACT Government provides a Design Standard for Playgrounds and Play Equipment which provides guidance on a number of aspects of the provision of playgrounds including age groups.

When providing play space, consideration should be given to ensuring suitable space and equipment is available within a locality for:

- Early Childhood (0-3): Restricted mobility would normally have full time supervision from an adult.
- Young children (4 to 9): Beginning to explore and test their motor abilities. Typically supervised by an adult.
- Older children (9 to 14): Test their motor abilities and work to master skills. Needs to be a challenge. Limited to no adult supervision.
- Teenagers (15 to 19): Generally utilise facilities such as bike paths, skate parks, sports facilities rather than playground equipment

Additional Services:

As well as the provision of play equipment or space, a number of additional services should be considered to make play spaces attractive to young people as well as their families:

Shade: In particular in the local climate, the provision of shade within near proximity to play equipment is an important factor.

Environmental factors: The local environment such as natural slopes and trees to climb can provide additional elements for children to explore and utilise.

Location: Next to busy roads, environmental hazards or water bodies and if so, consideration of mitigating factors to increase the safety and perception of safety.

Signage and rules: Enforcing, and promoting the exclusion of dogs, smoking and drinking through signage increases the perception of safety within a play area.

Fencing: Bollards to designate the play area or full fencing to prevent young children wandering away as well as prevent access by dogs.

Other amenities: Nearby access to drinking water, public toilets, bbq's, seating, lighting, accessible walking paths and cycle paths, access to power, space for temporary services such as coffee vans.

Catchment Hierarchy:

The Department of Sport and Recreation Classifications Framework for Public Open Space, November 2012 provides four categories of public open space:

- Local open space
- Neighbourhood open space
- District open space
- Regional open space

The table on the following page details this hierarchy and identifies the key features of each category:

Hierarchy	Purpose and Function (playground context)	Access	Typical size	Activities
Local	Services the needs of the immediate resident population	The majority of residents should live within 400 metres or 5 minute walk	0.4 to 1ha	May include: children's play, dog walking, picnics and family gatherings. Relaxation and rest spots, casual team activities, walking running or cycling.
Neighbourhood	Serve as the recreational and social focus of a community. Residents are attracted by the variety of features and facilities and the opportunities to socialise	Within 800 metres or 10 minute walk	1ha to 5ha	May include a combination of open parkland and bushland with activity spaces for casual play
District	Principally designed to provide organised formal sport. Will likely include substantial recreation space Serves neighbourhoods with players and visitors travelling from surrounding districts.	Within 2 kilometres or 5 minute drive. In regional areas may provide sporting facilities for the wider district.	5ha to 15+ha	May consist of sufficient space to accommodate a variety of concurrent uses including organised sports, children's play, picnicking, dog exercise, social gatherings and individual activities.
Regional	Primarily sporting rather than playground. May accommodate important recreation and organised sport spaces as well as significant conservation.	Serves one or more geographical or social regions and is likely to attract visitors from outside the local government area. Users not living within close proximity	Variable dependant on function, should be 20ha+	Should be large enough to accommodate various concurrent uses, including organised sports, children's play, picnicking, bush walking, and protection of natural features.

Adapted from: Classifications framework for public open space, Department of Sport and Recreation November 2012.

Number of playgrounds per person:

The Parks and Leisure Australia Benchmarks for Community Infrastructure (March 2012) provides guidelines for the provision of a number for community services including playgrounds and play space.

Of note is the statement that “It is the objective of PLA WA to reduce the number of play spaces and increase the quality of provision in areas where they are to be provided.”

It is acknowledged within the document that rural and regional areas do not necessarily align to population benchmarks and recommends that the needs of the community are established on a case by case basis. This said, to provide a guide for the provision of play space within the Shire of Wyndham East Kimberley based on population, the PLAWA guidelines indicate that play spaces should be provided at a ratio of:

1:1,000 Local Open Space (*Note that local open space is listed separately to play spaces within the guidelines)
1:2,000 Neighbourhood Play Space
1:8,000 to 10,000 District Play Space
1:50,000 Regional Play Space

	Local	Neighbourhood	District	Regional
Kununurra (benchmark)	5	2.5	0.5	0.1
Kununurra (provided)	5	4	0	0
Wyndham (benchmark)	1	0.5	0.1	0.02
Wyndham (provided)	2	2	0	0

Benchmarks Summary:

These benchmarks indicate that the Shire is currently slightly over serviced in regard to the number of play spaces provided per person. When viewing the catchment area map however, the play space provision catchment coverage is relatively thorough without over servicing one particular area.

Costs:

The requirements of the Australian Standards mean that each additional item of playground equipment requires additional time, repairs and replacement costs. The type, size and construction of each item will impact on these costs. Factors such as susceptibility to vandalism including graffiti (how easy is it to clean) and destruction (fire, damage) should also be considered. These whole of life costs must be identified and included in the decision making process when planning any new play area or reviewing existing facilities. This includes:

- Construction
- General maintenance (i.e. inspections, minor repairs),
- Repairs of vandalism, major maintenance
- Replacement costs

Maintenance:

The cost of maintaining play spaces can be broken down to the categories below:

- General maintenance
- Vandalism
- Annual Inspections (playground equipment)

The general maintenance is dependant more on the total space (mowing, landscaping reticulation, soft fall), and services provided (total items of play equipment, seating, drinking water, toilets), rather than the number of play spaces provided. The same space and number of services divided amongst more play spaces really only adds to travel time (for mowing, inspecting) and additional pack up and unpack of equipment (mowers etc).

There may be some impact of the number of play spaces on total vandalism costs, in particular if services are concentrated at a location that receives less vandalism than other sites.

The cost of routine inspections for playground equipment is primarily dependent on the number and type of items as opposed to the number of different play spaces. There may be some minor travel costs however the majority of time required is required for the inspection itself.

Integration with Cycling and Walking Paths:

Play spaces should be accessible and where possible be located on or near designated cycle or walking paths. The Shire is seeking to develop a Trails and Paths Plan that will provide strategic direction for the provision of these pathways and better inform this component of the Play Space Plan.

Tourism:

While the guidelines are based around service provision to residents, it should also be acknowledged that the provision of play spaces at locations away from residential properties do have a function in providing a service for tourist or residents that visit these recreational areas. This should be considered when viewing residential catchment zones.

Fitness:

The inclusion of fitness equipment is a common and positive use of play space. As outdoor fitness equipment may also be located on trails or other open space and has significant recreation impacts, strategic direction for the provision of this equipment will be included in the Trails and Paths Plan once developed.

Shire of Wyndham East Kimberley Guidelines:

The two primary factors informing the provision of the number of play spaces are somewhat conflicting. When using total population figures the Shire is somewhat over serviced for playgrounds however catchment hierarchy indicates both Kununurra and Wyndham have access to a satisfactory coverage for the population. It is acknowledged that the PLAWA guidelines are drafted for urban areas and as a regional location there are factors that must also be considered. These are:

- The spatial layout of the towns (population spread over a large area, in particular in Wyndham)
- Climate (lifespan of equipment, need for shade, method of accessing the play space)
- Vandalism (lifespan of equipment and suitability of equipment provided)

With consideration to the information above, the following guidelines have been developed for the provision of playground equipment within the Shire of Wyndham East Kimberley:

Guidelines:

1. Community Engagement: As community interest in play space provision is high, major changes to provision should not be undertaken unless a community engagement plan has been developed in accordance with the Shires' Community Engagement Guidelines. This includes the removal of any equipment, design and purchase of any new equipment or features.
2. Playgrounds should be constructed to and maintained at the relevant Australian Standards:
AS/NZS 4486.1:1997 Playgrounds and playground equipment Part 1: Development, installation, inspection, maintenance and operation
3. All major play space projects will consider Crime Prevention Through Environmental Design practices. All existing play spaces will be reviewed to maximise compliance with CPTED principles.
4. The Shire will maintain a register of dedicated play space to make clear to the community what areas are intended for play spaces as opposed to incidental "public open space".
5. There should be a variety of equipment, within both Kununurra and Wyndham there will be a minimum of one:
 - Accessible item of play equipment for people with disability;
 - Designated nature play area; and
 - Item of play equipment for each of the identified age ranges.

Variety should also be considered including:

- Equipment constructed of different materials (in particular difficult to damage or burn);
- Variations in type (i.e. slide, swing, climbing frame); and
- Making use of natural features such as trees, ground slopes, boulders.

6. Hierarchy service level definitions:

To meet the hierarchy guidelines, a definition of minimum level of service for play spaces within the Shire is outlined below. The minimum size of the play spaces' is lower than the Department of Sport and Recreation Guidelines as a reflection of the significant open space within the Shire as well as the spatial layout of the towns and resultant high number of play spaces provided:

	Minimum size	Minimum level of service
Local	0.4 ha	0.4ha of designated maintained play space. Does not require equipment if there is access to reasonable open play area and natural features that encourage play.
Neighbourhood	0.8 ha	2 items of playground equipment servicing two different age ranges. Possible access to one or more additional amenities including public toilets, drinking water, seating, bins.
District	3.0 ha	One item servicing each age range identified. Additional amenities (within 100m), of access to public toilets, drinking water, rubbish bins, and significant shaded area.
Regional	15+ ha	One item servicing each age range identified including at least one accessible item. Additional amenities on site, access to public toilets, drinking water, bbq, significant shaded area. Sporting facilities and amenities that may include ovals and sporting fields, sports courts and associated amenities (i.e. change rooms, viewing area).

7. Play space will be provided so that the majority of residents living within each town site:
1. Live within 400 metres, or 5 minute walk from a play space.
 2. Live within 800 metres, or 10 minute walk from a neighbourhood (or higher) level play space.
 3. Have access to a district level play space within their town site.

While it is acknowledged that according to both the PLA WA Guidelines the population of either Kununurra or Wyndham does not actuate the need for a district level play space, the Shire also aligns with the PLA WA objective to provide fewer, but higher quality play spaces. The provision of one play space of district level as opposed to two or more local play spaces will allow residents to essentially “spend a day at the park” by ensuring access to:

- Toilet facilities
- Drinking water
- Cooking and eating facilities
- Play equipment and space for a range of age groups and abilities.

References:

Benchmarks for Community Infrastructure, A PLA WA Working Document, March 2012.

Department of Sport and Recreation Classifications Framework for Public Open Space,
November 2012

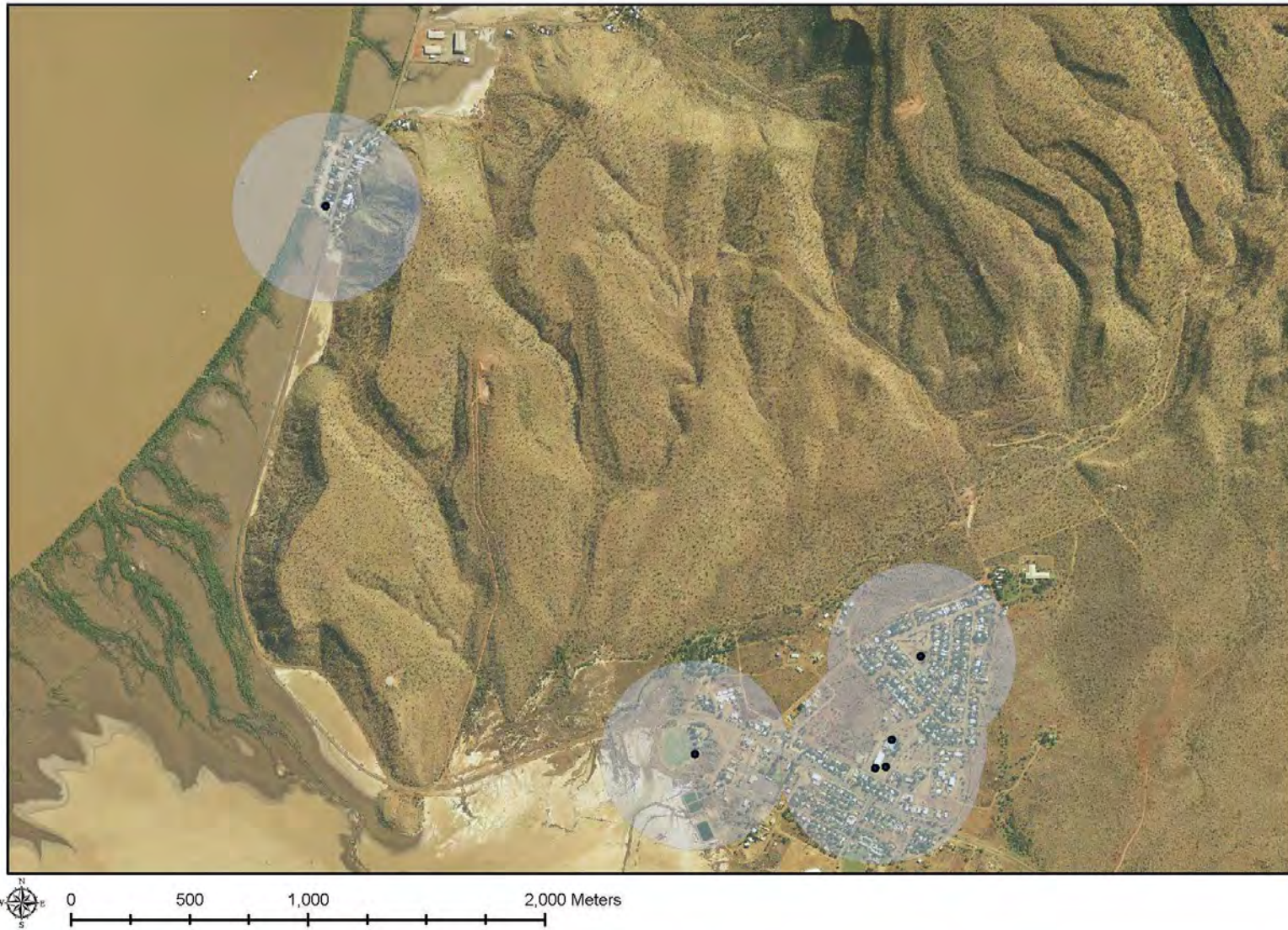
Design Standards for Urban Infrastructure: 15, Playgrounds and Playground Equipment ACT
Government

Kidsafe WA <http://www.kidsafewa.com.au/playgroundimportance.htm>

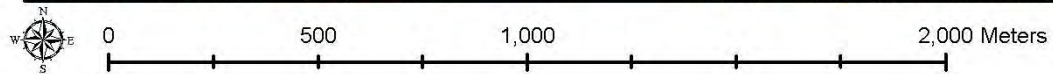
Appendix 1: Shire of Wyndham East Kimberley Play Spaces 2015

Existing Play Spaces:					
Name:	Size	Playground Context	Playground Age Range	Other facilities	Hierarchy
<u>Kununurra</u>					
Celebrity Tree Park		Well-equipped large playground within large open space park.	4-9	Public toilets, rubbish bins. Gazebo with access to power. No drinking water.	Neighbourhood
Pindan Park		Nil	Nil	Small play space, seating, pathways, some shade from trees.	Local
Swim Beach		Small play area	4-9	Public toilets, Barbeque, Undercover seating/gazebo	Local
Nicolson Park		Large range of playground equipment on medium sized open space park.	4-9 9-14	Half-court basketball, walking path (solar lights), undercover seating. Medium size play space, shade from trees	Neighbourhood
Argentia Street		Well-equipped medium sized playground	4-9 9-14	Drinking water, shaded table and chairs	Local
White Gum Park		Playground equipment was removed due to vandalism. Skate Park	9-14	Public toilets, rubbish bins, skate park,	Neighbourhood
Kununurra Town Oval		No playground equipment, Oval, sports courts.	-	Public toilets (not always open), access to power, sports courts.	Neighbourhood
Ag Oval		Nil	-	Nil	Local
Lakeside stage 6		Nil	-	Nil	-
Boobiulla Way		Nil	-	Cricket pitch	-
<u>Wyndham</u>					
Bessie Wylie Park		Medium playground equipment located at Wyndham Port	4-9	Public toilets 200m walk, seating, shade from trees	Local
Lions Park - Denman St		Medium sized playground.	4-9	Large play space, undercover shade, table and chairs, shade from trees.	Local
St Pauls Way		Well-equipped playground undercover. Skate Park.	4-9 9-14	Located near swimming pool, skate park, outdoor courts, Youth and recreation centre. Bench seating nearby. No public toilets, drinking water made available at Youth and Recreation Centre.	Neighbourhood
Clarrie Cassidy Oval		Small range (2 items) of playground equipment	9-14	Public toilets, drinking water, undercover viewing area, large play space.	Neighbourhood

Appendix 2: The maps below show the location of all existing designated play spaces with a 400 metre catchment zone. **Note: The maps include the swimming pools not classified as public play space due to entry fees.**



Kununurra Playspace 400m Buffer



Cr G Taylor declares an impartiality interest (member of club, may lease land in future) in this item.

13.3.3 Draft Policy CP_PMG-3780 Leasing of Council Managed Reserve – Community

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Wayne Richards, Manager Community Services
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	CM.11.2
ASSESSMENT NO:	N/A
DECLARATION OF FINANCIAL INTERESTS:	Nil

PURPOSE

For Council to adopt the reviewed Policy CP_PMG-3780 Leasing of Council Managed Reserve including the change of title to “CP_PMG-3780 Leasing of Council Managed Reserve – Community”.

BACKGROUND

CP_PMG-3780 Leasing of Council Managed Reserve Land was adopted in May 2012. This policy informed the processes and content of all Shire leases, both community and commercial.

Through this review it was identified that the objectives and processes of community and commercial leases are very different from each other. To better reflect this and ensure the policies reflect the different objectives, separate policies would be drafted for community and commercial leases. CP_PMG-3780 will now specifically apply to community leases, for this reason the word “Community” has been inserted into the title. A draft policy specifically for commercial leases is included in the June Ordinary Council Meeting Agenda.

This Draft Reviewed Policy was presented to the 28 April Ordinary Council Meeting for endorsement to seek public comment. The draft policy was advertised from 7 May 2015 on the Shire Website, Shire Facebook site and Kimberley Echo.

One comment was received and this has been considered in the development of the final Draft Reviewed Policy. Refer Attachment 1.

STATUTORY IMPLICATIONS

Local Government Act 1995

3.58. *Disposing of property*

- (1) *In this section —*
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

POLICY IMPLICATIONS

This item seeks to amend and update CP_PMG-3780 Leasing of Council Managed Reserve Land.

FINANCIAL IMPLICATIONS

The recommended commencement annual rental for community leases detailed in the Policy has not changed from \$500.00 per annum.

This policy will be considered when undertaking all existing community lease rent reviews.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY CONSULTATION

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and has included:

Public advertisement of the draft reviewed CP_PMG-3780 Leasing of Council Managed Reserve – Community for a period of no less than 28 days.

COMMENT

A single response was received, this comment stated:

"clause 8.13 (should read, following on from "final draft")

8.13a

Provided that no changes have been made to the final draft, no amendment to boundaries, nor denial of access, approvals unreasonably withheld or changed in any way. In the event of any of these, the commencement date of the new lease is the date all parties have formally agreed to the document"

Changes were made to this clause however Officers consider that the sentiment expressed by the respondent, that no changes would be made to the final draft once agreed upon, are captured by the amended clause point 8.13. Clause 8.13 has been amended from:

"Where there is a period between the expiry of a lease and the commencement of a new lease, the commencement date of the subsequent lease will be the date of the formal acceptance of the final draft."

to

"Should a lease expire, a holding over clause will apply. Where there is a period between the expiry of a lease and the commencement of a new lease, the

commencement date of the subsequent lease will be the date of agreement to the final draft lease by the Shire of Wyndham East Kimberley and the lessee.”

Other amendments to the draft exhibited Policy include:

4. The public liability insurance has been amended from a minimum of \$10 million to \$20 million.
5. Formatting amendments to ensure consistency with the newly developed policy template.

ATTACHMENTS

Attachment 1 - Draft Reviewed Policy CP_PMG-3780 Leasing of Council Managed Reserve - Community

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council adopt the amended CP_PMG-3780 Leasing of Council Managed Reserve – Community.

AMENDMENT

Cr D Spackman moves an amendment to policy. To add a new dot point 8.15:
8.15 Sub leasing for a commercial purpose will not be supported.

Cr K Wright seconds the amendment.

Cr K Wright withdraws seconding the amendment.

FORESHADOWED MOTION

Cr K Wright foreshadows a motion to defer the item to a workshop.

Cr D Spackman's amendment lapses for want of a seconder.

The Officer's Recommendation is considered:

COUNCIL DECISION

Minute No.10990

Moved: Cr S Cooke

Seconded: Cr D Learbuch

That Council adopt the amended CP_PMG-3780 Leasing of Council Managed Reserve – Community.

Carried 7/2

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke,
Cr G Taylor, Cr G King**

Against: Cr K Wright, Cr D Spackman



POLICY NO	CP/PMG-3780	
POLICY	Leasing of Council Managed Reserve Land - Community	
RESPONSIBLE DIRECTORATE	Community Development	
RESPONSIBLE OFFICER	Manager Community Services	
COUNCIL ADOPTION	Date:	Resolution No:
REVIEWED/MODIFIED	Date	Resolution No:
	Date:	Resolution No:
REVIEW DATE	Date:	
LEGISLATION	<i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>Land Administration Act 1997</i>	
RELATED POLICIES	CP/PMG-3781 - Leasing of Council Managed/Owned Land - Commercial	
RELATED ORGANISATIONAL DIRECTIVES		

PURPOSE:

A community lease is an agreement between the Shire and an external organisation to manage a reserve or facility on behalf of the Shire and for the community. This agreement supports the organisation in conducting their activities/services, and in doing so, provides benefit to the wider community. In many cases this arrangement provides a service to the community that would otherwise not be available or would require significant Shire input.

The Shire of Wyndham East Kimberley seeks to support community groups in increasing capacity and improving facilities within the Shire that result in strengthening of the community helping to build vibrant, inclusive and healthy communities.

The objectives of this policy are to:

- Ensure Community leases maximise benefit to the community of the Shire of Wyndham East Kimberley by supporting community organisations in the provision of services, facilities and events.
- Ensure the economic and environmental impact of community leases on the Shire and the community is considered.
- Encourage clarity and consistency in the Shire's community leases and associated processes.
- Promote equity across all Shire community leases without favour or prejudice to individual organisations.
- Ensure assets leased to community organisations are well maintained to maximise sustainability, promote safety and maximise community benefit.
- Minimise risk to the Shire, financial or litigious, resulting from Community leases.

- Promote collocation and multipurpose development, where practicable, and strategic development of community facilities based on future requirements of the land and community needs.
- Ensure the value of community leases and Shire contribution to the community through community leases is recognised.

DEFINITIONS:

Community Group is an entity that carries on activities for a public purpose, or another entity whose primary object is not directed at making a profit.

Lease is a grant of interest in land.

Licence is a deed of agreement allowing for occupation of a parcel of land on a non-exclusive use basis. A licence is not an interest in land. As a matter of law, it simply authorises what would otherwise be a trespass. Licences do not provide the security of tenure offered under a lease agreement and can be cancelled without notice on provision of suitable grounds to do so.

POLICY STATEMENTS:

This policy provides the opportunity for the lessee to provide service(s) to the Community of the Shire of Wyndham East Kimberley. In some cases these services may not otherwise be provided or, would require funding from the Shire.

As community benefit is a key objective of this policy, Community leases should include mechanisms and terms that actively encourage benefit to the community. Lessees can promote community benefits through:

- Operating as per their permitted use and constitution
- Encouraging membership and participation
- Ensuring accessibility where appropriate.

Standard terms of Shire of Wyndham East Kimberley Community Leases are:

1. Permitted Use

Permitted use of a lease should be consistent with the purpose of (and management order for) the reserve land and the zoning of the land.

Incidental and ancillary use may be permitted to allow the community group to generate some profit and increase capacity, subject to the profit supporting the community use, and to allow for increased community use of the land as appropriate.

2. Lease Term

The standard lease term will be 10 years.

A longer lease term may be granted at the discretion of Council if the lessee can demonstrate the need for this extended term, as well as the financial sustainability to meet this need, through the lodgement of a business plan.

3. Lease Rent

Commencement rental will be \$500 per annum, excluding GST.

Rent review period for community leases will be every 3 years, unless otherwise determined by Council.

4. Development

Authorisation for any proposed development on leased land should be sought from the Shire prior to the submission of formal planning and building permit applications. The basis of such 'pre-approval' is to allow the Shire to determine the community need(s) based on long term strategic relevance and planning, which will help to avoid duplication and identify opportunities for collocation and multipurpose developments. Business plans prepared by community groups will assist in identifying proposed future development and opportunities for collocation.

At the conclusion of a lease, any buildings or infrastructure not removed from the lease site will become the property of the Shire, for the disposal or retention at the Shire's discretion and associated costs may be recovered from the lessee.

5. Maintenance Requirements

The lessee will be responsible for all maintenance of buildings, infrastructure or fixtures on the lease site.

6. Commercial Activity

It is recognised that in certain circumstances it is appropriate for the leased community facility to be utilised to generate profit, where that profit is used to support the lessee.

Council shall determine when profit-generating uses are acceptable having regard for the following:

- The use is ancillary and/or complementary to the main use
- The use is supported by the Reserve purpose
- The use provides an additional service not otherwise provided
- The community benefit outweighs the competitive advantage
- The use does not contravene any written law
- The use is not considered a nuisance or an unacceptable negative impact
- If the use is competing with a commercial enterprise.

Generally acceptable uses include:

1. Room or venue hire (for a limited time) for workshops, presentations, and functions generally; and
2. Food and beverage sales to members, and also to spectators during sporting events where planning, health and liquor licensing approvals have been obtained.

Any use outside what is generally acceptable will require consideration by Council, and if approved may affect determination of the annual lease rent.

7. Business Plans

The Shire at its discretion may request the submission of a business plan with any application to lease Shire managed land.

The development of a long term business plan is a key aspect in the setting of strategic direction and objectives for a group or activity and the associated planning, timeframes and resources required to achieve the strategic goals. It can also assist the sustainability and development of a group or activity.

A business plan in relation to a lease proposal should, as a minimum, outline:

- Long term plans or strategic direction over the next 10 years or more
- Detail with respect to infrastructure (buildings and associated works) needs
- Long term objectives with regard to current and potential future land use, and
- Long term financial objectives – to promote financial sustainability.

Business plans may assist in identifying opportunities for collocation and multipurpose development, and will be required in instances where there is a strategic future requirement for the land or a longer lease term is sought.

8. General

- 8.1. Collocation arrangements will be actively encouraged to ensure maximum community utilisation and benefit is obtained from limited community facilities.
- 8.2. Leases will only be granted over areas required for exclusive use. Any areas that can be used jointly or by the general public i.e. for access, parking, ablutions etc., will only be licenced.
- 8.3. Lessees are required to comply with all laws and statutory requirements which are imposed throughout the term of the lease.
- 8.4. Cost of the lease preparation (including advertising costs, valuations, legal fees), stamping and registration are to be met by the Lessee.
- 8.5. Any utility charges, rates and taxes levied against the land are to be paid by the Lessee.
- 8.6. It is strongly advised that the Lessee take out and maintain contents insurance for the contents within the leased premises.
- 8.7. The Lessee will hold public liability insurance to a minimum of \$20 million indemnifying the Shire of Wyndham East Kimberley from any loss resulting from the Lessees activities conducted within the leased premises.
- 8.8. Sub-leasing in principal is not supported unless it is required to enable multipurpose use of facilities or collocation. Sub-leasing agreements are not to be entered into without prior permission from the Shire and Minister for Lands.
- 8.9. Final Ministerial Approval will be required for all Crown land leases.
- 8.10. Registration of the lease will apply where required.

- 8.11. The Lessee will be required to complete a report at the request of the Shire detailing club and building details.
- 8.12. The Lessee may be approved by the Lessor to remain in possession of the leased premises following the expiry of the lease. In such circumstances the lessee will be deemed to be a tenant at will on a month to month basis.
- 8.13. Should a lease expire, a holding over clause will apply. Where there is a period between the expiry of a lease and the commencement of a new lease, the commencement date of the subsequent lease will be the date of agreement to the final draft lease by the Shire of Wyndham East Kimberley and the lessee.
- 8.14. The Shire as the Lessor will insure all buildings and other improvements with the Lessee to reimburse the cost of this insurance to the Shire.

EXPLANATORY NOTES:

This policy proposes to outline standard lease provisions and guiding principles for the lease of Reserves vested in the Shire of Wyndham East Kimberley to bodies exempt from the requirements of *Section 3.58 of the Local Government Act 1995 by Regulation 30 (2) (b) of the Local Government (Functions and General) Regulations 1996*, being charitable, benevolent, religious, cultural, educational, sporting or other like nature bodies, whose members are not entitled or permitted to receive any pecuniary profit from the bodies' transactions.

All leases are subject to the final approval of the Minister for Lands.

Under the *Land Administration Act 1997*, the Shire has been granted the care, control and management of numerous parcels of Reserve land which is set aside for various recreational and community purposes, along with the power to lease. As such, the Shire leases this Reserve land to various community groups, clubs, and recreational bodies for the purpose of supporting community use and providing community benefit.

Leases provide exclusivity and security of tenure. Leases are in most cases viewed favourably, if not essential, by some funding providers for capital works grants. The security of tenure encourages Lessees to develop and maintain facilities and lease sites for the benefit of their members, an ultimately the wider community.

The exclusivity of a lease does have disadvantages. Leases generally do not encourage collocation or shared facility use and can discourage the development of multipurpose facilities. Such partnership and shared facilities promote more efficient use of space and facilities maximising community asset utilisation. In certain situations therefore, it may be more appropriate for an arrangement for a non-exclusive use of the land or buildings through a Licence. This would then allow and encourage greater use and access by a number of clubs/community groups and the general public, as practicable.

It is noted that all community leases that are located on a foreshore must have a 10 metre buffer. In such cases it is appropriate for the Shire to issue a License maintaining access for pedestrians and for passive recreational purposes.

RISK:

Risk: Failure to comply with legislative requirements leading to damage of reputation and/or financial loss.

Control: Review policies and procedures in accordance with review schedule.

Cr K Wright declares an impartiality interest (life member of society) in this item.
Cr G Taylor declares an impartiality interest (former winner of 'best savoury muffin' and ag show supporter) in this item.
Cr R Dessert declares an impartiality interest (life member of KAS) in this item.

13.3.4 Kununurra Agricultural Society Temporary Caravan Park Licence 1 July – 14 July 2015

DATE:	23/06/2015
PROPONENT:	Kununurra Agricultural Society (KAS)
LOCATION:	Lot 504, portion of Reserve 29799, Coolibah Drive
AUTHOR:	Ebony Daniell, Environmental Health Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PH.12.5
ASSESSMENT NO:	A2153
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider an application made by Kununurra Agricultural Society Incorporated (KAS) for a Temporary Caravan Park and Camping Ground Licence at Lot 504, portion of Reserve 29799, Coolibah Drive, Kununurra for the period 1 July to 15 July 2015.

BACKGROUND

The Kununurra Agricultural Show is an annual event run by KAS at the Agricultural Society Oval. In 2015 the event will run Friday 10 July and Saturday 11 July 2015. As part of the event a number of event staff including exhibitors and vendors travel to Kununurra. To accommodate travelling event staff the KAS has applied for a temporary caravan park licence for 37 short stay sites and six camp sites from Friday 1 July to Wednesday 15 July 2015.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

- s. 7(5) *Before granting a licence a local government must ensure that —*
- (a) *the applicant has complied with the requirements of this Act;*
 - (b) *the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.*

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

- r. 47. *Applications not dealt with within time are taken to be refused*
- (1) *If within —*
- (a) *63 days of receiving an application for a licence; or*
 - (b) *35 days of receiving an application for a renewal of a licence, the local government to which the application was made has not informed the applicant whether or not the application has been granted, the applicant may give the chief executive officer of the local government a notice requiring the local government to inform the applicant, within 14 days, whether or not the application is granted.*

(2) If within 14 days after receiving a notice referred to in subregulation (1), the local government has not informed the applicant whether or not the application is granted, the local government is to be taken to have refused the application and the applicant may make an application for review to the State Administrative Tribunal under section 27 of the Act.

r. 54 Temporary licence

(1) A local government may, on payment of the fee set out in item 3 of Schedule 3, grant a temporary licence for a facility which is to remain in force for such period of less than one year, as is provided in the licence.

(2) A local government is to endorse on a temporary licence for a facility as conditions of the licence —

- (a) the maximum number of sites that may be used at the facility;
- (b) the maximum number of sites of particular types that may be used at the facility; and
- (c) the services and facilities that are to be provided.

POLICY IMPLICATIONS

Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds (the Policy)

Council Policy CP/HTH-3762 provides guidelines for the approval of temporary licences. The policy provides for reduction in amenity and requirements of the Regulations which is considered appropriate as temporary licences are usually issued only for a short time.

Guiding Statement 2 of the Policy requires the applicant to detail the need for a temporary facility with particular due regard to:

- providing justification for the temporary facility (why it's needed, the main users)
- impact on existing caravan parks and camping grounds within a 50km radius

FINANCIAL IMPLICATIONS

The lease to KAS is for the lease rent to commence at \$750 for Community Use, and is subject to review if, and effective as of the date, a caravan park licence is granted. However, it is not expected that this requirement would be applied for a licence issued for only two weeks.

If Kununurra Agricultural Society is granted a temporary licence they will be invoiced for a licence fee to be calculated in accordance with Schedule 3 of the Regulations. For 40 short stay sites and 5 camp sites for 15 nights the minimum fee of \$100 will be applicable.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

To be licenced as a Temporary Caravan Park and Camping Ground compliance must be demonstrated with CP/HTH-3762.

The proposed caravan park licence meets the requirements of the Policy with respect to Guiding Statement 2:

- Justification – the proposed licence will provide necessary on-site accommodation for event staff to allow them to stay near their equipment during their stay in Kununurra.
- Impact on existing parks – the licence will accommodate only event staff who travel to Kununurra for the purpose of participating in the Agricultural Society Show. It is not considered to have a negative impact on existing parks and is not competing for the normal tourist market.

The justification and short duration of the proposed licence makes it acceptable for Council to approve lesser services and facilities as part of the licence in accordance with the Policy.

ATTACHMENTS

There are no attachments associated with the report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council approve the Kununurra Agricultural Society's application for a temporary caravan park licence for 40 short stay sites and 5 camp sites from 1 July to 15 July 2015 subject to the following conditions:

1. Only event staff associated with the Agricultural Show are to be accommodated in the park.
2. The following minimum ablution facilities are to be available for the duration of the licence: 6 toilets, 4 hand basins, and 4 showers.
3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.
4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.
5. Fire extinguisher/s are to be located within 90 metres of every site.

COUNCIL DECISION

Minute No.10991

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council approve the Kununurra Agricultural Society's application for a temporary caravan park licence for 40 short stay sites and 5 camp sites from 1 July to 15 July 2015 subject to the following conditions:

- 1. Only event staff associated with the Agricultural Show are to be accommodated in the park.**
- 2. The following minimum ablution facilities are to be available for the duration of the licence: 6 toilets, 4 hand basins, and 4 showers.**
- 3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.**
- 4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.**
- 5. Fire extinguisher/s are to be located within 90 metres of every site.**

Carried Unanimously 9/0

Cr K Wright declares an impartiality interest (life member of society) in this item.
 Cr G Taylor declares an impartiality interest (former winner of 'best savoury muffin' and ag show supporter) in this item.
 Cr R Dessert declares an impartiality interest (life member of KAS) in this item.

**13.3.5 Kununurra Agricultural Society Temporary Caravan Park Licence
 May – October 2015**

DATE:	23/06/2015
PROPONENT:	Kununurra Agricultural Society Incorporated
LOCATION:	Lot 504, portion of Reserve 29799, Coolibah Drive
AUTHOR:	Ebony Daniell, Environmental Health Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PH.12.5
ASSESSMENT NO:	A2153
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider an application made by Kununurra Agricultural Society Incorporated (KAS) for a Temporary Caravan Park and Camping Ground Licence at Lot 504, portion of Reserve 29799, Coolibah Drive, Kununurra. The proposed licence is for May to October 2015 for 30 short stay sites and one long stay site to accommodate a caretaker.

BACKGROUND

In 2001, Council approved the Kununurra Agricultural Society's use of the oval surrounds as a caravan park and camping ground during the peak tourist season. Justification for the approval was to accommodate big rigs and people travelling with pets when all other parks were full. Since this initial approval the licence has gone through a number of changes as detailed in Attachment 1.

In 2014 the KAS held a licence for 40 short stay sites and 5 camp sites to operate between 1 April and 30 November 2014. The Shire received complaints in 2014 regarding the licensing of the KAS park. As a result the Shire facilitated several meetings in late 2014 involving representatives from the Agricultural Society and Caravan Park operators to discuss options for future licencing of the KAS park. As a result of these meetings it was agreed that a temporary licence was no longer suitable and KAS would work towards full compliance with the Regulations to enable them to be licenced as a permanent park.

At the request of KAS Shire officers provided a report in November 2014 detailing the requirements for the park to be licensed as a permanent park (Attachment 2). The report included 17 required actions to bring the facility into compliance with the Regulations. It is noted that KAS have concurrently applied for planning approval to establish a permanent caravan park and in their application have indicated that most items are being actioned and 4 have been completed.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

s. 7(5) Before granting a licence a local government must ensure that —

(a) the applicant has complied with the requirements of this Act;
(b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.
Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

r. 47. Applications not dealt with within time are taken to be refused

(1) If within —

- (a) 63 days of receiving an application for a licence; or
(b) 35 days of receiving an application for a renewal of a licence, the local government to which the application was made has not informed the applicant whether or not the application has been granted, the applicant may give the chief executive officer of the local government a notice requiring the local government to inform the applicant, within 14 days, whether or not the application is granted.

(2) If within 14 days after receiving a notice referred to in subregulation (1), the local government has not informed the applicant whether or not the application is granted, the local government is to be taken to have refused the application and the applicant may make an application for review to the State Administrative Tribunal under section 27 of the Act.

r. 54 Temporary licence

(1) A local government may, on payment of the fee set out in item 3 of Schedule 3, grant a temporary licence for a facility which is to remain in force for such period of less than one year, as is provided in the licence.

(2) A local government is to endorse on a temporary licence for a facility as conditions of the licence —

- (a) the maximum number of sites that may be used at the facility;
(b) the maximum number of sites of particular types that may be used at the facility; and
(c) the services and facilities that are to be provided.

POLICY IMPLICATIONS

Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds (the Policy)

Council Policy CP/HTH-3762 provides guidelines for the approval of temporary licences. The policy provides for reduction in amenity and requirements of the Regulations which is considered appropriate as temporary licences are usually issued only for a short time.

Guiding Statement 2 of the Policy requires the applicant to detail the need for a temporary facility with particular due regard to:

- providing justification for the temporary facility (why it's needed, the main users)
- impact on existing caravan parks and camping grounds within a 50km radius

FINANCIAL IMPLICATIONS

The lease to KAS is for the lease rent to commence at \$750 for Community Use, and is subject to review if, and effective as of the date, a caravan park licence is granted. In this regard Council would need to consider what length or type of caravan park licence would trigger the requirement to review the lease rent.

If Kununurra Agricultural Society is granted a temporary licence they will be invoiced for a licence fee to be calculated in accordance with Schedule 3 of the Regulations.

**1. Application for grant or renewal of licence —
reg. 45**

The fee for an application for the grant or renewal of a licence is —

(a) \$200; or

(b) the amount calculated by multiplying the relevant amount set out in column 2 by the maximum number of sites (including any sites that may be used in an overflow area) of the particular type specified in the application, whichever is the greater amount.

Column 1	Column 2
Long stay sites	\$6 per site
Short stay sites and sites in transit parks	\$6 per site
Camp site	\$3 per site
Overflow site	\$1.50 per site

2. Additional fee for renewal after expiry — reg. 53

Additional fee by way of penalty for renewal after

expiry \$20

3. Temporary licence — reg. 54

Temporary licence *pro rata amount of the fee payable under item 1 for the period of time for which the licence is to be in force with a minimum of \$100*

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and has included:

All permanent parks within Kununurra were offered the opportunity to comment on the application. The Shire received five written submissions in response, which are summarised in Table 1.

Table 1 Summary of responses to request for comment

Response	Comments
Disagree	<ul style="list-style-type: none"> - Parks may fill for a couple of weeks at the beginning of July at other times they struggle to fill all of their sites. - Unfair/subsidised competition - Downward pressure on site fees for all parks
Indifferent	Support approval conditional to: <ul style="list-style-type: none"> - All other caravan parks being full - Big rigs permitted at all times
Indifferent	Accept that KAS may operate as a licenced park with the provision that they: <ul style="list-style-type: none"> - Comply with all legislative requirements - Are liable for the same running costs and licensing fees
Disagree	Disagree with a temporary park operating May-October Would support an overflow park or park compliant with legislative requirements
Disagree	Disagree with licence in its current form: <ul style="list-style-type: none"> - Need for licence has not been demonstrated - Impact on existing parks has not been considered - Downward pressure on site fees for all parks Supportive of KAS having a licence to fundraise, but not at a detriment to existing businesses.

The Kununurra Visitors Centre was also contacted to provide a comment. Their feedback indicates that there may be a need for an overflow facility for caravans in Kununurra, but that this would generally only be needed from late June to early August (depending on weather).

COMMENT

To be licenced as a Caravan Park and Camping Ground compliance must be demonstrated with the Policy and Regulations.

The Policy allows the approval of lesser services and facilities in temporary caravan parks and camping grounds, but only in appropriate situations (for example overflow or event based licences for short periods). The intent of a temporary licence is to meet a demand that is not catered for adequately by permanent parks. For this reason applications for temporary licences must demonstrate the need and consider the impact on existing parks.

The application letter from the KAS is provided in Attachment 3. It is not considered that KAS have adequately demonstrated the need or considered the impact on other parks (as required by the Policy) in their application:

- The need for an overflow park for large recreational vehicles and travellers with pets which was identified in 2001 no longer exists. Most other parks in town have advised that they are capable of and cater for these customers. There may be a need for overflow facilities during the peak tourist season, however this would not justify operating from May-October.
- While the proposed KAS licence would be for a relatively small portion of the market, it is not correct that there will be no negative impact on other parks in the area. Feedback indicates that if overflow sites are required in Kununurra it would only be from late June to early August. By operating outside of these times the KAS park will

be directly competing for customers with no justification for the reduced services and facilities they provide.

As there is no justification for a temporary licence of this length it would not be appropriate to approve lesser services and facilities.

As the KAS facility will be competing with existing businesses they should be held to the same standards and required to comply fully with the Regulations. It should be noted that while there are a number of actions required to bring the facility into compliance with the Regulations (refer to Attachment 2) most of these are minor issues which can be easily rectified. It is understood that KAS are working towards meeting these requirements, but that they will not be complete by this season. The KAS have indicated that the requirement for sullage points will take the most time to rectify.

An option may be to grant a temporary licence to KAS for the interim period to allow them time to upgrade their facilities. The recent planning application made by KAS to upgrade the facilities indicates they will do so within the next two years. However, it must be taken into account that in their application for a temporary licence in December 2011 (refer to Attachment 1), KAS also indicated their intention to upgrade to a permanent facility and this never eventuated. Also, if Council did opt to grant a temporary licence to KAS for the interim period for May to October Council would need to determine whether it would require the lease rent to be reviewed.

Given the ongoing nature of this issue it is recommended that until the KAS facility is fully compliant with the Regulations a licence is not issued.

ATTACHMENTS

Attachment 1 - History of KAS Caravan Park Licence

Attachment 2 – Report November 2014

Attachment 3 – KAS Application Letter

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council do not approve the application from Kununurra Agricultural Society Incorporated dated 4 May 2015 for a temporary licence from May to October 2015 due to non-compliance with *Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds*.

FORESHADOWED MOTION

Cr S Cooke foreshadows a motion, that Council approve the application from Kununurra Agricultural Society Incorporated dated 4 May 2015 for a temporary licence from 24 June to 31 August 2015 on the grounds that they are actively moving towards a permanent facility.

The Officer's Recommendation is considered:

COUNCIL DECISION

Minute No.10992

Moved: Cr B Robinson

Seconded: Cr R Dessert

That Council do not approve the application from Kununurra Agricultural Society Incorporated dated 4 May 2015 for a temporary licence from May to October 2015 due to non-compliance with *Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds*.

Carried 5/4

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr G Taylor

Against: Cr K Wright, Cr S Cooke, Cr G King, Cr D Spackman

12.4.3 Kununurra Agricultural Society's Caravan Park And Camping Ground License

DATE:	14 December 2010
PROPONENT:	Kununurra Agricultural Society
LOCATION:	Reserve 29799 Coolibah Drive
AUTHOR:	Kelly Cripps, Senior Environmental Health Officer
REPORTING OFFICER:	Nick Kearns, Director Development Services
FILE NO:	01.2153.03
ASSESSMENT NO:	A2153

PURPOSE

For Council to consider terms of the Caravan Park and Camping Ground License held by the Kununurra Agricultural Society on Reserve 29799.

BACKGROUND

Reserve 29799 is vested with the Shire for community and recreation purposes. The Kununurra Agricultural Society has a lease over the Reserve and the purposes listed on the lease include entertainment, recreation, equestrian and agricultural show activities.

In 2001, Council approved the Kununurra Agricultural Society's use of the oval surrounds as a caravan park and camping ground during the peak tourist season. Justification for the approval was to accommodate big rigs and people travelling with pets when all other parks were full.

The license was extended beyond its temporary nature in 2006 when at its Ordinary Meeting on 21 November 2006, Council resolved the following:

Minute No 7557

Moved: Cr K Wright

Seconded: Cr J Buchanan

- 1. That Council enter into negotiations with the Kununurra Ag Society to implement new licence subject to the following provisions:***
 - i. The number of long term bays shall be no greater than 10.***
 - ii. The number of short term bays shall be no greater than 30.***
 - iii. The maximum stay for short term bays shall be three months [as per the Regulations].***
 - iv. The caravan park may operate between April 1st and November 30th. After this period the caravan park may only be occupied by the caretaker, and any caravaner or camper that cannot gain entry to another caravan park or camping ground due to ownership of pets or are vehicles are too large to gain entry to an alternate park.***
 - v. Only travellers with pets or large vehicles may occupy a bay at the caravan park /camping ground, except during the months of June, July and August when it shall not be necessary to have a pet or large vehicle to occupy the caravan park/camping ground.***

<p>vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.</p> <p>2. That Council direct Council officers to investigate compliance with the Caravan Parks and Camping Grounds Regulations 1997 for all other caravan parks in the Shire.</p> <p>3. Council delegate to CEO to achieve a negotiated outcome within the provisions of this recommendation.</p> <p style="text-align: right;">Carried Unanimously: 7/0</p>

With regard to provisions listed in point 1 of the above motion:

CONDITION	COMMENT
i. The number of long term bays shall be no greater than 10	These two conditions have been wrongly interpreted by the Agricultural Society to mean they could be licensed for a total of 40 sites. In actual fact ablution facilities at the show ground only permit it to be licensed for a total of 30 sites.
ii. The number of short term bays shall be no greater than 30	
iii. The maximum stay for short term bays shall be 3 months (as per regulations)	This condition is unnecessary as the 3 month maximum for short term sites is a requirement of the regulations.
iv. The caravan park may operate between April 1 st and November 30 th . After this period the caravan park may only be occupied by the caretaker, and any caravanner or camper than cannot gain entry to another caravan park or camping ground due to ownership of pets or vehicles too large to gain entry to an alternate park.	<p>This point inadvertently approves the Agricultural Society to operate a caravan park and camping ground for a full year subject to conditions outside of 1st April to 30th November.</p> <p>Council leaves itself open to reprimand by licensing the Agricultural Society as a caravan and camping ground when it did not comply fully with the regulations.</p> <p>Outside the peak tourist season, the need to provide a facility for travellers with pets or large vehicles is not necessary as there are two caravan parks that accept pets and there are ample sites in the permanent caravan parks for large rigs so these conditions are not justified.</p>
v. Only travellers with pets or large vehicles may occupy a bay at the caravan park/camping ground, except during the months of June, July and August when it shall not be necessary to own a pet or have a large vehicle to occupy the caravan park/camping ground.	<p>Again, the need to provide a separate permanent facility for travellers with pets or large vehicles outside of the peak tourist season is not necessary as there are two caravan parks that accept pets and there are ample sites in the permanent caravan parks for large rigs.</p> <p>If the main issue is finding sites in the peak tourist season then it would be more appropriate to license the Agricultural Society to operate at temporary camp ground.</p>
vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.	This condition is difficult for the Agricultural Society to monitor and enforce.

In relation point 2 of motion 7557, Licensed Caravan Parks and Camping Grounds within the Shire are inspected by Environmental Health Officers at least annually.

In 2009, staff undertook a thorough audit of caravan parks following concerns that many were operating outside of their license and in contravention of the regulations. Problems were found at most Caravan Parks and this was presented to Council at its briefing on 9 March 2010. Most issues related to the number of sites being occupied and this affected their licensing for 2010/2011. The Kununurra Agricultural Society caravan park was included in the audit and there were a number of non compliances identified. A follow-up inspection was carried out on 22 July 2010.

In August 2010, the Shire received three written complaints regarding the Agricultural Society's Caravan Park and Camping Ground License. The complainants question how a license was issued without compliance with the applicable Regulations, and why there is a need for them to operate outside of the peak tourist season.

The fact that the caravan park does not comply with the legislation and is operating for the entire year is an issue of concern for Council.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

The resolution of 21 November 2006 has the effect of licensing the Kununurra Agricultural Society caravan park for a full year and this was done contrary to requirements of the legislation.

Section 7 of the Act sets out how an application for license as a caravan park must be made, being:

1. An application made to the local government on the prescribed form.
2. Payment of the prescribed fee.
3. Provision of any information that the local government reasonably requires for a proper consideration of the application.

In addition, Section 7 states that a local government may grant or renew a licence and at any time may impose conditions on that license.

Any application for a permanent caravan park, amendment to an existing license or addition to an existing caravan park would require the provision of properly drawn to scale plans and specifications detailing and showing that the proposed facility complies with the Act and Regulations.

Legal advice obtained specifically in relation to this matter is provided at Attachment 1.

POLICY IMPLICATIONS

Clause 54 of the Regulations allows a local government to license caravan parks with lesser facilities for a temporary period. A draft policy on the licensing of temporary camp grounds was brought to Council at its Ordinary Meeting on 20 April 2010. At that meeting approval was given to advertise the draft policy for comment. A copy of the draft policy CPHTH-3762 Licensing of Temporary Camp Grounds is provided as Attachment 2.

Due to the comments received and sensitive nature of the matter, the policy has not yet been brought back to council for final adoption. Further consultation with existing caravan park operators will occur early in 2011 to review issues raised, prior to it being considered for adoption by Council.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Governance: Compliance with legislative requirements.

COMMUNITY CONSULTATION

No community consultation has occurred with respect to this matter.

COMMENT

Outside the peak tourist season, the need to provide a facility for big rigs and travellers with pets is unnecessary as there are two caravan parks that accept pets and there are ample sites in permanent caravan parks for large rigs.

All caravan parks were visited by an Environmental Health Officer in the first week in September 2010 and it was clearly evident that there was ample room to accommodate large rigs. The caravan parks were also operating well below capacity. Therefore the need for the Kununurra Agricultural Society Caravan Park to be licensed for a full year to accommodate large rigs and pets cannot be justified.

The author of the agenda item of 21 November 2006 noted that there is no such category as a Temporary License in the legislation. Whilst this is correct, the Regulations do allow for Council to license a caravan park for a temporary period. This means that it is licensed as a Caravan Park and Camping Ground but the period of the license is restricted. A policy was developed earlier in the year to ensure consistency in the way temporary camp grounds were licensed. The draft policy can be used as a guide, but will be subject to revision early 2011.

The Kununurra Agricultural Society has not yet been issued with their Caravan Park and Camping Ground license for 2010/2011. Officers wanted to resolve the outstanding compliance matter before doing so.

ATTACHMENTS

Attachment 1 – Legal advice regarding the approval of the Agricultural Society as a Caravan Park and Camping Ground

Attachment 2 – Shire of Wyndham East Kimberley Draft Policy CPTH-3762 Licensing of Temporary Camp Grounds

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground license for 30 short term sites until 30 June 2011.
2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or
 - b. A temporary park in accordance with Council policy.

COUNCIL DECISION

Minute No: 9369

Moved: Cr J Moulden

Seconded: Cr J Parker

That Council:

- 1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground License for 30 short term sites until 30 June 2011, subject to the approval of Minister for Regional Development and Lands.**
- 2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;**
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or**
 - b. A temporary park in accordance with Council policy.**

CARRIED UNANIMOUSLY: (7/0)

**12.4.2 Application for Temporary Caravan Park - Kununurra
Agricultural Society**

DATE:	21 February 2012
PROPONENT:	Kununurra Agricultural Society Inc
LOCATION:	Reserve 29799, Lot 77 Coolibah Drive Kununurra
AUTHOR:	Kelly Cripps, Senior Environmental Health Officer
REPORTING OFFICER:	Nick Kearns, Director Development Services
FILE NO:	PH.12.5
ASSESSMENT NO:	2153

PURPOSE

For Council to consider an application by the Kununurra Agricultural Society to operate a temporary caravan park on Reserve 29799. The application is made with request to allow 6 long term sites, a variation of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.

BACKGROUND

An audit of all caravan parks in Kununurra and Wyndham was conducted in 2009 after inconsistencies were found in licensing during routine inspections. The audit found that many parks were operating more sites than was legally allowed under the *Caravan Park and Camping Ground Regulations 1997*. Since then, Shire's Environmental Health Officers have been working closely with operators to ensure all comply with the Regulations.

The Kununurra Agricultural Society's Camp Grounds came under particular attention during the audit as it was determined that they were operating outside of the approval granted on 21 November 2006.

Minute No 7557	
Moved: Cr K Wright	Seconded: Cr J Buchanan
1. That Council enter into negotiations with the Kununurra Ag Society to implement new licence subject to the following provisions:	
i.	The number of long term bays shall be no greater than 10.
ii.	The number of short term bays shall be no greater than 30.
iii.	The maximum stay for short term bays shall be three months [as per the Regulations].
iv.	The caravan park may operate between April 1st and November 30th. After this period the caravan park may only be occupied by the caretaker, and any caravaner or camper that cannot gain entry to another caravan park or camping ground due to ownership of pets or are vehicles are too large to gain entry to an alternate park.
v.	Only travellers with pets or large vehicles may occupy a bay at the caravan park /camping ground, except during the months of June, July and August when it shall not be necessary to have a pet or large vehicle to occupy the caravan park/camping ground.

- vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.**
- 2. That Council direct Council officers to investigate compliance with the Caravan Parks and Camping Grounds Regulations 1997 for all other caravan parks in the Shire.**
- 3. Council delegate to CEO to achieve a negotiated outcome within the provisions of this recommendation.**
- Carried Unanimously: 7/0**

The matter was brought to Council to consider on 14 December 2010 and the following motion was passed.

COUNCIL DECISION

Minute No: 9369

Moved: Cr J Moulden
Seconded: Cr J Parker

That Council:

- 1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground License for 30 short term sites until 30 June 2011, subject to the approval of Minister for Regional Development and Lands.**
- 2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;**
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or**
 - b. A temporary park in accordance with Council policy.**

CARRIED UNANIMOUSLY: (7/0)

Representatives from the Kununurra Agricultural Society have since met with Council Officers on numerous occasions to address Council's decision.

On 21 December 2011 an application was received from the Kununurra Agricultural Society to operate a temporary park with 6 long term sites.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)
Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

Clause 54 of the Regulations allows Local Government to license caravan parks with lesser facilities for a temporary period

POLICY IMPLICATIONS

Council Policy CP\HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds was adopted by Council at its ordinary meeting on 21 June 2011.

FINANCIAL IMPLICATIONS

The Kununurra Agricultural Society has paid the annual license fee of \$200.00 to operate a caravan park and camping ground in the 2011/2012 financial year. This fee is determined by the *Caravan Park and Camping Ground Regulations 1997*.

The fee for a temporary facility is also determined by the regulations and is \$100 or a pro rata amount payable for a normal license.

STRATEGIC IMPLICATIONS

The strategic implications of this report are overarching compliance to the *Shire Wyndham East Kimberley Strategic Plan 2008*.

This report aligns with Council's focus on Governance, Key Result Area 5, in the *Shire of Wyndham East Kimberley Strategic Plan 2008*.

- Council decisions are consistent with policies and strategies
- Council accepts responsibility for decisions

COMMUNITY CONSULTATION

Council Officers have had regular contact with members from the Kununurra Agricultural Society to assist them in preparing an application.

COMMENT

In the past 2 years Council has adopted 3 policies relating to caravan and camping legislation. The aim of this has been to minimise individual interpretations and set clear boundaries for what is expected from existing facilities and those wanting to provide an alternative camping solution.

With regard to the Kununurra Agricultural Societies application;

1. The ablutions are adequate for 40 sites in a temporary facility, which the Agricultural Society has applied for. All other amenities such as water, power, rubbish facilities, fire fighting equipment and setbacks have been met.
2. The application requests dates of operation to be from 1 April – 30 November each year (8 months). These dates were agreed to by Council in the initial approval on 21 November 2006.
3. The Agricultural Society has applied for 6 long term sites to be used all year round. The original approval from November 2006 stated that only those who could not gain entry to another caravan park or camping ground due to ownership of pets or large vehicles could remain at the grounds outside of the 1 April - 30 November. Some of the current long term occupants do not have pets and could fit at other parks, therefore there is no need for them to be at the Agricultural grounds.

With regard to pet ownership; there are now at least two caravan parks in Kununurra that accept pets.

On the matter of large vehicles; most parks have less than 50% occupancy of sites from 1st December to 31st March and therefore large vehicles should be able to be accommodated elsewhere.

In addition item 8.1 of Council Policy CP/HTH-3762 states;

“Only short stay and camp sites will be approved at a temporary caravan park and camping ground.

Long stay sites and overflow sites will not be approved at a temporary caravan park or camping ground.”

An important consideration when approving a temporary camping facility is the determination of ‘need’. This policy requires applicants to detail justification for the facility (why it is needed and who the main users are), and the impact it is likely to have on caravan parks and camping grounds within a 50km radius.

Previous justification for approving the Kununurra Agricultural Society as a camp ground was the need for a facility that could fit big rigs and allowed pets. This is no longer justified.

The need for a temporary facility could be justified from 1 April to 30 November due to peak tourist numbers and sites for seasonal workers. It should be noted however that the Agricultural Society requires occupants to vacate for a week during the peak tourist period in the July school holidays so they may run the annual Agricultural Show. This puts immense pressure on other caravan parks and creates illegal camping problems in other areas of town.

There is no mention of impact on other caravan parks and camping grounds in the Kununurra Agricultural Societies application.

The Kununurra Agricultural Society has indicated they would like to work towards an application for a permanent caravan park in the future however there are a number of matters that need to be addressed prior to this occurring;

1. A planning application for use of the site as a caravan park and camping ground must be submitted and approved.
2. Facilities need to be upgraded to ensure full compliance with the *Caravan Park and Camping Ground Regulations 1997*. This includes;
 - a. Provision of a hard stand for every long stay site;
 - b. Toilets and showers must be located within 90m of every site;
 - c. The ablutions provided would only allow for a maximum of 30 sites to be approved in accordance with the regulations. A 10 site reduction should they remain licensed as a temporary facility;
 - d. All long stay sites are to have a separate meter to record the electricity.
 - e. Each caravan site is to be no more than 10m from a sullage waste dump point and a camp site to be no more than 30;
 - f. In addition there are minor items such as providing recreational areas protected from the weather, showers to be provided with permanently affixed seats, an accessible baby’s bath and additional laundry troughs.

It should be noted that these are outstanding items from an inspection conducted in 2011 and some may have since been dealt with.

ATTACHMENTS

Attachment 1 – Application for a temporary camp ground park made by Kununurra Agricultural Society

Attachment 2 – Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1) Approves the Kununurra Agricultural Society to operate a Temporary Caravan Park in accordance with Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds from 1 April to 30 November each year, with a maximum of 40 short stay sites and 5 camp sites (as depicted on the site plan provided).
- 2) Refuses the application for long term sites, being inclusive of 1 December to 31 March each year, due to there being insufficient justification, in accordance with clause 8.1 of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.

Cr D Auburn and Cr R Dessert declare Impartiality Interest in the item as life members of the Kununurra Agricultural Society.

Dominique Breig enters the Public Gallery at 6.06pm.

Moved: Cr K Torres

Seconded: Cr R Addis moves the Officer's Recommendation with minor adjustments to include "This excludes any approved caretaker dwelling" at the end of dot point 1.

COUNCIL DECISION

Minute No. 9709

Moved: Cr K Torres

Seconded: Cr R Addis

That Council:

- 1. Approves the Kununurra Agricultural Society to operate a Temporary Caravan Park in accordance with Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds from 1 April to 30 November each year, with a maximum of 40 short stay sites and 5 camp sites (as depicted on the site plan provided). This excludes any approved caretaker dwelling.**
- 2. Refuses the application for long term sites, being inclusive of 1 December to 31 March each year, due to there being insufficient justification, in accordance with clause 8.1 of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.**

Carried unanimously 8/0

R Addis declared financial interest in Item 12.4.6 Local Planning Strategy Review – Rural Residential and Rural Smallholdings Development and leaves room at 6.08pm.

Attachment 1 – Application for a temporary camp ground park made by Kununurra Agricultural Society



KUNUNURRA AGRICULTURAL SOCIETY (Inc.)

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Ph: 08 9168 2885
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Website: www.kas.org.au

President: Bruce Carey Ph: 0437 486 787
Support Officer: Fina Halmos-Byrneson Ph: 0407 320 816
Treasurer: Kerry Grandison Ph: 0438 863 014

Wednesday 21 December 2011

Kelly Cripps
Senior Environmental Health Officer
Shire of Wyndham East Kimberley
PO Box 614
Kununurra WA 6743

Dear Kelly

Application for a Temporary Caravan Park

Please find attached an application for a Temporary Caravan Park at the KAS site with specific requests for variation from Policy CP/HTH-3762.

It is the intention of the committee to work towards an application for a permanent caravan park in the near future, however in the interim we wish to operate as a Temporary Facility.

If you have any questions in relation to this matter please contact me on the number below.

Kindest Regards

Fina Halmos-Byrneson

Fina Halmos-Byrneson
Society Support Officer | Kununurra Agricultural Society
Phone: 08 9168 2885 | Email: knaags@westnet.com.au
PO Box 271, Kununurra, WA, 6743 | Website: www.kas.org.au
Office Attended: Mon - Fri 2pm-6pm

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Kununurra Rural Traders / Kununurra Pest Management www.krtc.com.au

Application

Tenure – current lease expires 30 June 2012 - have commenced negotiations with Shire of Wyndham East Kimberley for a new lease – minimum 10 year tenure.

2 sets of accurately scaled plans, site layout and floor plans of associated buildings and facilities

Number of sites requested – 40, including caretaker and 6 long term sites to enable existing long term tenants to remain (as per the assurance of Council to maintain the status quo of the KAS and its caravan park)

Max number of people on site: as per the policy no more than 10 pax per site – at maximum 400 however based on previous year's experience we anticipate maximum onsite numbers of 250 at any given time.

Consultation: Local letters of support needed – KVC, Chamber of Commerce, Employers of long termers?

Dates of Operation:

- 1 July 2011 – 30 November except for 6 long term sites which we request year round (or as long as employed by a local employer + 4 weeks leeway)
- 1 April to 30 June except for 6 long term sites which we request year round (or as long as employed by a local employer + 4 weeks leeway)

7. Minimum Requirements:

7.1 Ablutions – provided in accordance with the policy 6 toilets, 4 showers and 4 hand basins. All ablutions are connected to deep sewerage.

7.2 Water – A centrally located tap with running water for use by all occupiers, no more than 90m from any site – as shown on the site plan. One source of non-potable water is clearly signed as per the policy

7.3 Electricity – Mains powered sites and non-powered sites offered

7.4 Rubbish – rubbish bins are provided and located within 90m of each site as per the site plan and emptied twice each week. Rubbish bins all have lids.

7.5 Fire Fighting Equipment – fire extinguishers are accessible at all times within 90m of each site

7.6 Setbacks

- Sites are clearly defined and marked as per the site plan.
- There shall be no more than **10 people** per site at any one time
- A maximum of one caravan, bus, campervan or tent is permitted per site
- A minimum of 3m is kept between caravans, buses, campervans and tents on different sites
- All sites are set back a minimum of **5m** from the road

7.7 Caretakers Residence – a caretaker will reside onsite for the period of the temporary licence and is the emergency point of contact for each occupier.

7.5 Advertising and Commercial Activities – the temporary facility is not advertised and patrons are not permitted to conduct commercial or profit making business activity within the facility.



SHIRE of WYNDHAM | EAST KIMBERLEY

PO BOX 614 KUNUNURRA WA 6743

Our Ref: PH.09.5 O-19699
 Cross Ref: A2153P
 Enquiries: Louis Franks

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 F | 08 9168 1798
 E | mail@swek.wa.gov.au
 W | www.swek.wa.gov.au
 ABN | 35 647 145 756

4 November 2014

Ms A Thomson
 Kununurra Agricultural Society
 PO BOX 271
 KUNUNURRA WA 6743

Dear Anthea

INSPECTION OF KUNUNURRA AGRICULTURAL SOCIETY CARAVAN PARK, LOT 77 COOLIBAH DRIVE, KUNUNURRA, WA 6743

This is to confirm an inspection of the caravan park was carried out by Environmental Health Officers Louis Franks and Ebony Daniell on Thursday 16 October 2014 to assess the park following the proposal to change from a temporary Caravan Park to a licensed Caravan Park. The inspection was carried out to confirm compliance with the:

- Caravan Parks and Camping Grounds Act 1995
- Caravan Parks and Camping Grounds Regulations 1997

The Caravan Park was assessed under the requirements for a permanent licensed park and was found to be catering for:

- 30 short stay sites (maximum stay of three months)
- 10 overflow sites (1 June – 31 July only, maximum stay of 5 nights)
- No long stay sites are permissible with the current facilities (more than 3 months, this excludes the caretaker)

Compliance with the attached schedule of works is necessary before a license can be granted for a permanent park. An application form for the grant or renewal of a caravan park license is enclosed. This must be submitted accompanied by all required supporting documentation:

- Proof that the applicant is the owner of the proposed land or written approval from the owner to use that land **CP & CG Act 1995 Cl: 5 (7) (b)**
- A detailed site plan (completed by a draughtsperson) showing all sites, buildings, roads and paths, lighting, drainage and wastewater disposal systems, and locations of firefighting equipment including detailed specifications **CP & CG Act 1995 Cl: 7 (1) (c)**

Planning approval is required to operate as a permanent park and the Shire Planning Department should be contacted before proceeding.

Please be advised that subject to section 7, clause: 4 of the Caravan Park & Camping Grounds Act 1995 a local government may grant or renew a licence and at any time may impose conditions on that licence.

If you have any queries on these matters, please contact either Louis Franks or Ebony Daniell on 9168 4100.

Yours sincerely



Louis Franks
Environmental Health Officer

SCHEDULE OF WORKS

Kununurra Agricultural Society Caravan Park – Caravan Parks and Camping Grounds Act 1995 & Caravan Parks and Camping Grounds Regulations 1997

Clause/ reg	Requirement of Regulations/Act	Action required
Sch 7 cl.19	There is to be at least one toilet and one shower within 90 metres of each site.	Sites 1-5 were more than the required 90 metres from the ablutions. These sites cannot be used unless designated as overflow. Sites numbered with (a) on the 2014 version 3 site plan can only be used as overflow from 1 June – 31 July.
Sch 7 cl. 24(c)	Each shower is to be enclosed in a cubicle which has a permanently affixed seat.	No fixed seat/bench in all shower cubicles. Install a fixed seat/bench.
Sch 7 cl. 25	Babies bath.	Baby changing bench provided in unisex disabled toilet. Additionally, a 45 litre capacity babies bath (stainless steel or other suitable material) to be installed.
Sch 7 cl. 26	Hand basin plugs, shelving, hot water.	Install plugs and fix/replace missing shelving above hand basins. Hand basins to be supplied with hot water (not less than 45°C).
Sch 7 cl. 27	Power points ablutions.	Install a power point at WC hand basins (Ag Society office ablutions only).
Sch 7 cl. 28	Coat hooks WC's.	Install coat hooks to WC doors.
Sch 7 cl. 29	Sanitary disposal units - each building on a facility which contains female toilets is to have at least one approved napkin disposal unit.	Install a minimum of 1 disposal unit per female ablution block.
Sch 7 cl. 46	Caravan site at a facility is to be no more than 10 metres from a sullage waste water dump point which is in accordance with the requirements of AS/NZS 3500.2.2, or the facility is to utilise other approved means of dealing with sullage.	Install sullage dump points within 10 metres of each site. Dump points must be connected to mains sewerage.

Sch 7 cl: 42 & 44	Potable water.	There is to be a tap connected to a supply of potable water within at least 10 metres of every short stay site on a facility, unless otherwise approved.
Sch 7 cl. 30	Laundry - Drain plug for trough.	Plugs to be supplied to all laundry troughs.
Sch 7 cl. 31	Camp kitchens x 2 – washing up facilities. Camping ground is to have at least one trough for the washing of utensils used for cooking and eating for each 20 camp sites.	Drain plug to be provided and hot water (45°C) to be supplied Troughs in campers kitchens to be connected to an approved effluent disposal system i.e. in accordance with AS/NZS 3500.2.2: 1996 “National Plumbing and Drainage. Sanitary plumbing and drainage - Acceptable solutions.”
Sch 7 cl. 33, 35, 36	<p>Fire extinguishers in a facility are to be in accordance with the requirements of AS 2444-1995 “Portable fire extinguishers — selection and location”. A facility is to have at least one extinguisher for every 6 sites. A facility is to have an extinguisher not more than 30 metres from each site, located in a central position in an area accessible to all persons in the facility.</p> <p>Fire equipment at a facility is to be accessible and ready for use at all times. Fire equipment at a facility is to be maintained in accordance with the requirements of Part 1 or 2, as is appropriate, of AS 1851 “Maintenance of Fire Protection Equipment”.</p> <p>All fire extinguishers are to be clearly displayed and mounted in accordance with “AS244-2001 Portable Fire Extinguishers & Fire Blankets”.</p>	Install fire extinguishers that are within 30 metres of each site (one per six sites). Ensure that fire extinguishers have clear signage and are mounted in an accessible location. Service fire extinguishers every 6 months. Plans are to detail locations.

Sch 7 cl.15	Roads to be constructed and maintained as approved.	Roads to be clearly marked and to be maintained. Entrance road to be 6 metres wide, one way roads 4 metres wide and two way roads 6 metres wide. Dust suppression to be carried out.
Sch 7 cl: 17(3)	Visitor parking.	A car park on a facility is to have at least one parking space per 20 caravan sites on the facility, and not less than 4 parking spaces in any event.
Sch 7 cl. 18	Recreation areas. Recreational facilities for children which are protected from the weather, and enclosed as is approved; and a building for communal or recreational activities, as is approved.	Pavilion to be open for recreational activities and to be fitted out with recreational equipment for adults and children.
Sch 7 cl. 8	There is to be at least 3 metres between a caravan, annexe or camp on a site in a facility and — (a) a caravan, annexe or camp on any other site; or (b) any building on the facility that is not on a site.	3 metres to be kept between caravans. Sites must be large enough for this requirement. Big rig sites to be identified on site plan.
Sch 7 cl. 13, 37, 43 & 46(2)	If a caretaker is on site for longer than 3 months then it is considered a long stay site. A long stay site is to have the following — 1. A hard stand for a vehicle other than the caravan or such additional amount of space as is approved on the side of the facility road next to the site for at least one such vehicle to park; 2. All long stay sites are to have a separate meter to record the electricity, if any, supplied to that site. 3. A tap or water connection point with a supply of potable water at every long stay site. A long stay site with a caravan which has ablution, toilet or laundry facilities is to have a sewage connection point which is in accordance with the requirements of AS/NZS 3500.2.2	A hard stand to be constructed for the resident caretaker caravan or parking area next to the long stay site developed. Compliance with water, sewerage and electricity requirements if applicable.

	Approval is required for the construction of: (a) a hard stand on a site; (b) an area under an annexe attached to an on-site caravan; and (c) an area under an annexe on a long stay site.	
r. 43	An application for the grant or renewal of a licence, is to be made as per section 7(1)(a) of the CP & CG Act 1995 (stated in cover letter)	Completed form and documents as described in form are to be attached to an application for a licence. A site plan is to be completed by a draughtsperson. This is to be approved by Council.
r. 48	Overflow area – plans.	Plans must show any overflow area and must not exceed their licensed capacity.
r. 44	Plans & specification approvals.	Once plans and specifications have been approved, there can be no change without Council approval.



**SHIRE OF WYNDHAM EAST KIMBERLEY
APPLICATION FOR GRANT OR RENEWAL OF LICENCE
CARAVAN PARKS AND CAMPING GROUNDS ACT 1995, s27**

FACILITY NAME OR PROPOSED NAME: _____

OWNER DETAILS

Name _____
 Postal Address _____ Post Code _____
 Phone _____ Fax _____ Email _____
 Contact Person _____
 Signature _____ Date _____

APPLICANTS DETAILS

Family Name _____ Other Name _____
 Postal Address _____ Post Code _____
 Phone _____ Fax _____ Email _____
 Contact Person _____
 Signature _____ Date _____

LAND OWNER/S

1. Only necessary if applicant does not own the land referred to above. 2. Details to be provided in respect of each land owner.

Name _____
 Address _____ Post Code _____
 Phone _____ Fax _____ Email _____

PROPERTY DETAILS

Lot No. _____ Street No. _____
 Street Name _____ Suburb _____
 Nearest Street Intersection _____ Assessment No. _____
 Address _____ Land description _____

Declaration (making a false statement may be an offence)

I/We declare that all details in this form are true and correct.

Signature of applicant/s: _____ Date: _____

Signature of applicant/s: _____ Date: _____

- 1) The written approval of the owner of the land referred to in this form for the applicant's to make this application, or proof that the applicant/s is/are the owner/s of that land.
- 2) A plan of the proposed facility showing –
 - a) the sites, and where applicable, denoting the types of sites;
 - b) the buildings;
 - c) the roads and paths;
 - d) the drainage and waste water disposal systems; and
 - e) the location of fire hoses, fire hydrants and extinguishers.

OFFICE USE ONLY			
Date Received		Document No	
Fees Paid		Officer	
Receipt No		Response	
General Ledger Account		File	
EHO Approved		Licence Issued	



KUNUNURRA AGRICULTURAL SOCIETY (Inc.)

PO Box 271
Kununurra WA 6743
Ph: 08 9168 2885
Fax: 08 9168 2886

Email: knaags@knxagsoc.com.au
Website: www.kas.org.au

President: Ian Cross Ph: 0428 692 301
Support Officer: Michelle Couacaud Ph: 0416 360 480
Treasurer: Ariane Parker Ph: 0408 984 456

Jennifer Ninyette
Senior Planning Officer
Shire of Wyndham and East Kimberley
Mon 4th May, 2015.

Dear Jennifer,

Application for a Temporary Caravan Park License

As per SWEK Council Policy Number: CP/HTH – 3762, Licensing of Temporary Caravan Parks & Camping Grounds, The Kununurra Agricultural Society would like to submit our application for a Temporary License to trade for the 2015 Tourist (Dry) Season, May until the end of October. With our current assessed site and facilities we have the capacity to trade with 30 Short Stay sites.

With our lease with the Shire of Wyndham East Kimberley now finalised (Council Policy Number CP/PMG-3780 “Leasing of Council Managed Reserve Land”). We intend to use the land for its specifically allocated purpose of Community use, including recreation, equestrian and agricultural show activities. And to re-apply for a Temporary Caravan Park License (which we have previously held for many years), until our Planning Approval, improvements and pending Permanent Caravan Park Application are approved.

In accordance with our Lease, the Kununurra Agricultural Society may at any time during the Term of our Lease, seek the Shire’s approval to amend the Authorised Use specified to include a “caravan park and camping ground” and, that the Shire must give its approval if the conditions specified in the Lease are fulfilled. These conditions refer to the regulations of the *Caravan Parks and Camping Grounds Act 1995* (WA) to lawfully operate a caravan park and camping ground at the Leased Premises and that the Rent is reassessed to an amount determined by the Shire (acting reasonably) to take into account the new Authorised Use.

The ‘need’ for a Caravan Park that catered solely to Large Recreational Vehicles (over 23 foot) and Travellers with Pets was identified by the Shire of Wyndham East Kimberley, local Caravan Park Businesses and Tourists 14 years ago, when the Kununurra Agricultural Society decided to cater to these specific customers to ease the stress and extra work involved in their custom and for the potential Customer’s piece of mind. It is worth noting that the Kununurra Ag. Society Caravan Park only cater to these two very specific groups of Tourists. There is NO negative impact on any surrounding Caravan Parks, as we only cater to a small niche clientele with a limited capacity.

We openly give appropriate information and promote the use of **ALL other local Caravan Parks** in Kununurra and the surrounding areas, as well as other useful tourist information such as the Kununurra Visitors Centre's location and provisions, and other tourism related activities happening in our area when potential customers call or contact us for accommodation.

We keep the Grounds in accordance to Environmental Health standards of a Temporary Caravan Park License, and our priority is to further exceed these standards in the near future with our Planning Application approval pending. We currently have the Ablutions to cater for 40 -50 sites, but because of the large size of our sites, and the distance between the amenities are only able to offer 30 sites for trading purposes. The minimum size of our sites are 6.5 x 9 meters with most being 9 x 9 meters, again to cater to our specific potential customers.

The Site Fees collected by the Caravan Park are used to pay for the maintenance of the Kununurra Ag. Show Grounds and its facilities. With the expenses of the maintenance of the grounds, equipment and wages subtracted from the fees collected, there is little positive and quite regularly a negative profit margin. The Caravan Park's 'income' has the sole purpose of paying for the up-keep and improvements to the Ag. Show Grounds, for the community to use. Including the East Kimberley Football League games played on the 'Magpies Oval', of which we share land and facilities with, at no cost to Players, Spectators or Football Clubs.

I reiterate that the Kununurra Agricultural Society is a non for profit organisation whose main goal each year is to host, organise and manage the annual Agricultural Show. But we also help all other community groups who approach us, for the use of our facilities and equipment. Any funds we receive is put towards the maintenance and improvements to the Ag. Show Grounds and the expenses of the annual Ag. Show. All the Kununurra Agricultural Society is asking for is the ability to continue providing these opportunities to our Community this year and into the future. A Temporary Caravan Park License (and within the next two years, a Permanent Caravan Park) will greatly help us to achieve this goal.

Thank you to all who read this letter and consider our hopeful approval of the Temporary Caravan Park License Application.

Kununurra Agricultural Society Inc.

Cr R Dessert declares an impartiality interest (good friend) in this item

13.3.6 Lakeside Resort Lease

DATE:	23/06/2015
PROPONENT:	Ingle Pty Ltd
LOCATION:	Reserve 51637, Lot 506 on Deposited Plan 401069
AUTHOR:	Jennifer Ninyette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	A2860P
ASSESSMENT NO:	A2860
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider the commencement date for proposed lease of foreshore area adjacent to Lakeside Resort to Ingle Pty Ltd.

BACKGROUND

At the Ordinary Council meeting of 28 May 2013, it was resolved to offer a 21 year lease to Ingle Pty Ltd:

Minute No. 10071

Moved: Cr S Desert

Seconded: Cr J Parker

That Council:

- 1. Offers Ingle Pty a 21 year lease, for portion of Reserve 41812, part Lot 502 on Deposited Plan 64834, adjoining Lakeside Resort, Casuarina Way Kununurra, and the annual rental amount be set at \$25,750 to be reviewed every two years;**
- 2. Advertises its intention to enter into a lease over portion of Reserve 41812 to Ingle Pty Ltd for 14 days in accordance with section 3.58 of the Local Government Act 1995;**
- 3. Delegates the power to sign the lease to the CEO and Shire President, subject to receiving no objections during the advertising period.**

Carried Unanimously 8/0

A feature survey had been undertaken prior to this resolution, which was used as the basis for the indicative lease plan as provided at this Council Meeting for the draft Lease.

However, as the Department of Regional Development and Lands (now Department of Lands) required a new reserve to be created over the proposed lease area, and an approximately 10 metre wide strip along the water's edge to be retained for the purpose of foreshore, recreation and access, additional survey work was required to be undertaken.

This work was not undertaken until early December 2013 when Lake Kununurra was lowered for ease of access, and the deposited plan itself was lodged on 21 May 2014.

However, the Shire was only advised in late December 2014 that the deposited plan (Deposited Plan 401069) had been approved, certificate of land titles issued and the new reserve (Reserve 51637) created.

A copy of the final lease document was provided to Ingle Pty Ltd in late January 2015, and is provided at Attachment 3. It is noted however that a copy of the preliminary deposited plan and copy of the draft Lease were both provided to Ingle Pty Ltd in late July 2014, and there has been very minimal change to the lease document since that time.

Laurie McKenzie, Director of Lakeside Resort has, both verbally and in writing, advised that he will not sign the lease with a commencement date of 1 March 2014. A copy of email correspondence from Mr McKenzie is provided at Attachment 1.

The email response sent to Mr McKenzie's to clarify a number of points he raised, is provided at Attachment 2. A copy of the lease document is provided at Attachment 3.

STATUTORY IMPLICATIONS

Town Planning Scheme No. 7 – Kununurra and Environs

The land, now being Reserve 51637 (lease area) and portion of Reserve 41812 (licence area), is Scheme Reserve for the purpose of Special Foreshore Reserve under Town Planning Scheme No. 7 – Kununurra and Environs. The objective of the Special Foreshore reserve is 'to identify and protect those foreshore areas that have special conservation values particularly in regard to flora and fauna values and ensuring that areas of significance are ultimately identified and recorded through appropriate studies'.

Clause 2.2.1 of TPS states that where an application for Planning Approval is made with respect to land within a Scheme Reserve, the Council shall have regard to the ultimate purposes intended for the Reserve.

Land Administration Act 1997

Reserve 41812 is reserved under the Land Administration Act 1997 (LAA) for the purpose of 'Foreshore and Recreation'.

Reserve 51637 is reserved under the LAA for the purpose of 'Caravan Park and Camping Ground, Boat Launching, Mooring and ancillary uses', to allow the Shire to lease the land for the purpose of which the land has historically been used.

The Shire holds the management order for both reserves with power to lease for a maximum term of 21 years, subject to consent of the Minister for Lands.

As such, Shire Officers have worked closely with the Department of Lands in developing the Lease, who will also be signatory to the lease document to grant formal approval on behalf of the Minister for Land.

POLICY IMPLICATIONS

Councils' Policy *CP/PMG-3780 Leasing of Council Managed Reserve Land* only relates to leasing land to community groups and not commercial leases.

A new draft policy, *CP/PMG-3781 Leasing of Council Managed/Owned Land - Commercial* has been developed this policy outlines the core principles and standard provisions to provide clarity and consistency, and inform decision making in relation to commercial leases.

This draft policy specifies minimum lease term and maximum lease terms of 5 to 21 years and that lease rent will be based on a valuation of fair market rent to be reviewed by CPI annually, as well as outlining maintenance, risk management, insurance, and development requirements.

The draft policy states that the cost of the lease preparation (including advertising costs, valuations, legal fees), stamping and registration are to be met by the Lessee, regardless of whether a final lease is agreed to or not.

It also outlines that a renewed lease should be back dated to the expiry of the previous lease, to acknowledge that the Lessee has remained in occupation of the land/premise, and that the commencement date for all new leases will be the date that Council has agreed to enter into lease negotiations, or specifically determined at that time, and must be prior to, or as of, the date of access to or occupation of the land/premise.

Local Planning Strategy (LPS)

The LPS identifies that Lake Kununurra is a wetland of international significance listed under the Ramsar Convention, and requires careful management practices to ensure their protection from urban uses.

It is a specific action of the LPS to ensure consideration is given to:

- The proximity to natural sensitivity and the management strategies required to deal with any potential impacts;
- Built form and construction guidelines, including aesthetic matters and the protection of viewsheds and landscape values.
- Facilitate public access to Lake Kununurra foreshore through the provision of appropriate pedestrian and bicycle links from the town centre and nearby residential areas.
- Develop a master plan for the Kununurra foreshore area that emphasises public access to the waterway in a suitable manner.
- Where appropriate environmental management is in place, secure foreshore areas – both within and outside towns – for public access.

Lake Kununurra Foreshore and Aquatic Use Plan (LKFAUP)

There are a number of specific actions and key recommendations outlined in the LKFAUP, which relate to the proposed lease including:

- A minimum buffer area of 10m from the high water mark (full supply level) to be maintained for pedestrian access and passive recreational purposes with no permanent structures apart from a pathway and associated pedestrian facilities. Greater buffers may be used for specific areas as determined by the lessor (landowner) in consultation with State Government departments.
- Where greater than 50% of the 10m foreshore buffer is licensed to an adjoining lease holder, the lessee shall be responsible for preparing an action plan for that buffer area that guides their management of the whole of the foreshore buffer and its bank. This action plan must be submitted for approval by the relevant management authority.
- The revenue collected from the foreshore leases is to be used to maintain the public foreshore area and its associated facilities.

The LKFAUP also outlines development guidelines for use and development of the foreshore; however it is noted that any future proposed development/redevelopment of the foreshore and/or licence area will require a planning approval to be considered and determined by Council.

FINANCIAL IMPLICATIONS

Ingle Pty Ltd are currently charged an annual rent of \$1089 (inclusive of GST) for the lease of the land. A valuation has been obtained for the purposes of determining a new lease amount.

The starting rental amount for the proposed lease is \$25,790, determined in the valuation report dated 23 April 2013, as per Council resolution (**Minute No. 10071**).

Lake Kununurra Foreshore and Aquatic Use Plan outlines the requirement for money raised from foreshore leases to be spent on management and maintenance of the foreshore land and associated facilities.

The lease document also includes the standard clause that states that the Lessee must pay to the Lessor or as the Lessor directs, all the Lessor's reasonable costs, charges and expenses in connection with the negotiation, preparation, execution, settlement and stamping of the Lease.

To date, the following costs have been associated with preparation and negotiation of the lease:

Legal Costs	\$3183.65
Valuation	\$1500.00
TOTAL	\$4383.65

The cost to obtain an updated valuation has been quoted to be \$2,000 exclusive of GST.

The above costs do not however reflect the costs of Shire Officers' time in preparation, development and negotiation of the lease.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.2: Maintenance of economic diversity and greater community returns from investment in the region

Strategy 2.2.4: Enhance and expand tourism opportunities in the East Kimberley and improve access to significant tourism destinations

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities

Objective 3.5: An active outdoor lifestyle is encouraged and promoted

Strategy 3.5.3: Increased access to the lake, gulf and rivers, including boat ramps, according to demand usage and safety considerations

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

Engagement has taken place in accordance with the Shire's Community Engagement Guidelines and has included:

A local public notice, in accordance with Section 3.58 of the Local Government Act 1995, advertised Council's intent to dispose of land (lease) to Lakeside Resort in the Kimberley Echo issue of 4 July 2013. No submissions were made during the 14 day advertising period.

COMMENT

The adjoining foreshore land was originally leased to Ingle Pty Ltd for the permitted use of "Foreshore beautification, Motel tenant access and tour departure access" for a term of 5 years commencing 1 July 1993. No lease has been signed since the 1993 lease, and as such Ingle Pty is currently a tenant at will, it is in the Shire's interest to finalise an up to date lease.

The draft Lease was prepared by the Shire prior to the Ordinary Council Meeting held in May 2013 and reviewed by Ingle Pty Ltd and Department of Lands, with all parties generally content with the terms. A number of changes were subsequently requested by the Department of Lands in relation to indemnity and ensuring public access to the foreshore area between the hours of 5am to 7pm, which have been agreed to by all parties.

As such, the final version of the lease was finalised in January 2014 pending only the survey diagram being lodged and the new reserve and certificate of land records being created. As such the commencement date was set as 1 March 2014 to allow two months for the survey to be lodged and approved, however this ended up taking a year.

A market valuation was obtained in early 2013 for the purpose of progressing the lease, by enabling the Shire to comply with the requirements of section 3.58 of the Local Government Act 1995. A copy of this valuation report is provided at Attachment 4, which was the basis for the lease rental amount set.

Under section 3.58(3) of the Local Government Act (LGA) 1995 the local government can dispose of property other than via a public auction or public tender if it gives local public notice of the proposed disposition describing the property concerned, giving details of the proposed disposition and inviting submissions for at least 2 weeks after the date of the notice.

The details of the required local public notice as outlined in section 3.58(4) of the LGA, include:

- 1) the names of all parties concerned; and
- 2) the consideration to be received by the local government and the market value of the disposition; and
- 3) the market value of the disposition –
 - a. as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - b. as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

Although a local public notice of the proposed disposition has already been undertaken, it should be noted that the valuation is now two (2) years old.

At the meeting held with Mr McKenzie and Shire Officers on 24 March 2015 the Shire advised that it was likely that a new valuation would be required due to the initial application being dated two (2) years ago, and to take into consideration the new valuation now that the exact lease area is known. It is noted that the valuation was undertaken on the estimation that the lease area would be approximately 1.6ha in area, and that the actual area has now been confirmed as 1.583ha.

Mr McKenzie has since sent additional email correspondence wherein he advised that in reviewing the initial report he has some concerns with the initial valuation, which in summary are:

1. There has been a massive downturn in trading from 2011/2012 to 2014/2015
2. Considers that other caravan parks used for market evidence are not relevant in comparison.
3. Considers that a lease figure based on 100 days per annum operation would be a fair figure.
4. Considers that there should be no charge for the licence area; and
5. Considers that the reduction of proposed additional bays to be serviced, from 28 to 22, will dramatically affect the business case supporting the lease.

Mr McKenzie has also suggested that, as an alternative, the bi-annual rent review could be based on a business survey. A copy of this email is provided at Attachment 5.

It is acknowledged that there has been a decline in the caravan park industry since the date of the initial valuation, and therefore it is possible that the market valuation would have slightly decreased.

In relation to a fee for the licence area, it is noted that there is no licence fee associated with the Commercial Boating Facility Leases for the 10 meter wide licence area adjoining the Ord River, on the basis that the adjoining Lessee's are required to maintain the licence area on behalf of the Shire and for the benefit of the community. Similarly a licence fee should not be included in this instance for consistency.

It is also acknowledged that the delay was not the fault of either the Lessee or the Shire, and that while existing caravan and camping bays within the foreshore area have continued to be used in the interim, no new development has been allowed within the foreshore area, pending finalisation of the lease.

It is noted that the backdating of the lease, while common practice, is also subject to both parties contractually agreeing to the commencement date. It is also noted that, in this instance, it is not practical for the commencement date to be in accordance with the draft Council Policy *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial*, particularly as delays have occurred that were outside of the control of both the Shire and Ingle Pty Ltd.

Council therefore has two options going forward:

Option 1 is for Council to retain the disposition date of 1 March 2014 (or other specified date), and resolve that the existing valuation, which was carried out more than 6 months before the proposed disposition, is believed to be a true indication of the value at the time of the proposed disposition.

Option 2 is to obtain a reviewed valuation for a specified date to be the commencement of the lease, for example 1 July 2015. Once the updated valuation is obtained the Shire will be required to again give local public notice of the proposed disposition.

It is recommended that an updated valuation should be obtained, to ensure that the proposed disposition of land can be carried out in accordance with section 3.58 of *the Local Government Act 1997*, and should be obtained at the cost of the Lessee. The new valuation will take into consideration caravan park turnover and occupancy statistics.

It is also recommended that the draft Lease document (Attachment 3) be amended to reflect the standard terms outlined in the draft Council Policy *CP/PMG-3781 Leasing of Council Managed/Owned Land – Commercial* i.e. a CPI rent review will be conducted every year.

ATTACHMENTS

- Attachment 1 - Correspondence from Laurie McKenzie
- Attachment 2 - Shire clarification to Laurie McKenzie
- Attachment 3 - Lease document
- Attachment 4 - Valuation Report
- Attachment 5 – Subsequent correspondence from Laurie McKenzie

VOTING REQUIREMENT

In accordance with Section 10 of the Local Government (Administration) Regulations 1996, any motion to revoke or change a previous decision of Council must be supported by at least 1/3 of the number of offices (whether vacant or not) of members of the council inclusive of the mover.

Note: Presiding member to call for a show of hands to consider the revocation motion.

SHOW OF HANDS

Cr G Taylor, Cr B Robinson, Cr D Learbuch and Cr J Moulden

VOTING REQUIREMENT

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council revokes Minute No. 10071 of the Ordinary Council Meeting held on 28 May 2013.

“That Council:

- 1. Offers Ingle Pty a 21 year lease, for portion of Reserve 41812, part Lot 502 on Deposited Plan 64834, adjoining Lakeside Resort, Casuarina Way Kununurra, and the annual rental amount be set at \$25,750 to be reviewed every two years;*
- 2. Advertises its intention to enter into a lease over portion of Reserve 41812 to Ingle Pty Ltd for 14 days in accordance with section 3.58 of the Local Government Act 1995;*
- 3. Delegates the power to sign the lease to the CEO and Shire President, subject to receiving no objections during the advertising period.”*

COUNCIL DECISION

Minute No.10993

**Moved: Cr B Robinson
Seconded: Cr G Taylor**

That Council revokes Minute No. 10071 of the Ordinary Council Meeting held on 28 May 2013.

“That Council:

- 1. Offers Ingle Pty a 21 year lease, for portion of Reserve 41812, part Lot 502 on Deposited Plan 64834, adjoining Lakeside Resort, Casuarina Way Kununurra, and the annual rental amount be set at \$25,750 to be reviewed every two years;***
- 2. Advertises its intention to enter into a lease over portion of Reserve 41812 to Ingle Pty Ltd for 14 days in accordance with section 3.58 of the Local Government Act 1995;***
- 3. Delegates the power to sign the lease to the CEO and Shire President, subject to receiving no objections during the advertising period.”***

Carried Unanimously 9/0

VOTING REQUIREMENT

Simple Majority

OFFICER’S RECOMMENDATION 2

That Council requests the Chief Executive Officer to obtain a market valuation as at the 1 July 2015 for the proposed lease of Reserve 51637, being Lot 506 on Deposited Plan 401069, at the cost of Ingle Pty Ltd.

COUNCIL DECISION

Minute No.10994

**Moved: Cr B Robinson
Seconded: Cr S Cooke**

That Council requests the Chief Executive Officer to obtain a market valuation as at the 1 July 2015 for the proposed lease of Reserve 51637, being Lot 506 on Deposited Plan 401069, at the cost of Ingle Pty Ltd.

Carried Unanimously 9/0

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION 3

That Council offers Ingle Pty Ltd a Lease over Reserve 51637, Lot 506 on Deposited Plan 401069, subject to the following:

- a) Lease term to be 21 years;
- b) Commencement date to be 1 July 2015;
- c) Lease rent to be set at the Market Net Rental Value as of 1 July 2015 as determined by a licenced valuer, plus GST;
- d) Rent to be reviewed by CPI annually;
- e) Minister of Lands approval.

COUNCIL DECISION

Minute No.10995

Moved: Cr B Robinson

Seconded: Cr D Spackman

That Council suspends Standing Orders 7.5 Limitation of Number of Speeches.

Carried Unanimously 9/0

Standing Orders 7.5 Limitation of Number of Speeches suspended at 7.03pm

COUNCIL DECISION

Minute No.10996

Moved: Cr S Cooke

Seconded: Cr K Wright

That Council resumes Standing Orders 7.5 Limitation of Number of Speeches.

Carried 8/1

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr K Wright, Cr B Robinson,
Cr S Cooke, Cr G Taylor, Cr G King**

Against: Cr D Spackman

Standing Orders 7.5 Limitation of Number of Speeches resumed at 7.14pm

FORESHADOWED MOTION

Cr K Wright foreshadows a motion, that Council refers this item to our legal department for clarification of the matters raised by Cr D Spackman.

The Officer's Recommendation is considered:

COUNCIL DECISION

Minute No.10997

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council offers Ingle Pty Ltd a Lease over Reserve 51637, Lot 506 on Deposited Plan 401069, subject to the following:

- a) Lease term to be 21 years;
- b) Commencement date to be 1 July 2015;
- c) Lease rent to be set at the Market Net Rental Value as of 1 July 2015 as determined by a licenced valuer, plus GST;
- d) Rent to be reviewed by CPI annually;
- e) Minister of Lands approval.

Carried 6/3

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke,
Cr G Taylor**

Against: Cr D Spackman, Cr K Wright, Cr G King

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION 4

That Council delegates the power to sign the lease to the Chief Executive Officer and Shire President, subject to receiving no objections during the advertising period.

COUNCIL DECISION

Minute No.10998

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council delegates the power to sign the lease to the Chief Executive Officer and Shire President, subject to receiving no objections during the advertising period.

Carried Unanimously 9/0

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION 5

That Council requests the Chief Executive Officer to give one month's notice to Ingle Pty Ltd terminating the existing tenant at will arrangement if the Lease over Reserve 51637, Lot 506 on Deposited Plan 401069 to Ingle Pty Ltd is not executed within 3 months of this resolution, being on or before the 23 September 2015.

COUNCIL DECISION

Minute No.10999

Moved: Cr S Cooke

Seconded: Cr D Learbuch

That Council requests the Chief Executive Officer to give one month's notice to Ingle Pty Ltd terminating the existing tenant at will arrangement if the Lease over Reserve 51637, Lot 506 on Deposited Plan 401069 to Ingle Pty Ltd is not executed within 3 months of this resolution, being on or before the 23 September 2015.

Carried Unanimously 9/0

Jennifer Ninyette

From: Laurie McKenzie <laurie@lakeside.com.au>
Sent: Friday, 3 April 2015 8:08 AM
To: Louise Gee; Jennifer Ninyette; Cr Beau Robinson; Cr Darren Spackman; Cr Don Learbuch; Cr Gary King; Glenn Taylor; Jennifer Ninyette; Cr John Moulden; Cr Keith Wright; Cr Raymond Dessert; Cr Sophie Cooke
Subject: No Subject

Louise Gee<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />
Acting Chief Executive Officer
Shire of Wyndham East Kimberley
P O Box 614
Kununurra WA 6743

Re: Foreshore Lease. Lot 506 Lake Kununurra

Dear Louise,
Following our two meetings held at 1:00 pm and 3: 30 pm respectively, on Tuesday 24 March 2015,
I submit the following comment as requested.

To recap, attendees at those meetings were:

1:00 pm. Louise Gee and Jennifer Ninyette from Shire Wyndham East Kimberley and Laurie McKenzie from Lakeside Resort.

3:30 pm. The above attendees and at the request of the Shire a representative of the Department of Land.

Original purpose of the meeting was to resolve outstanding matters in relation to:

foreshore lease issues adjoining Lakeside Resort.

Previous emails forwarded to you, copies attached, outline two (2) issues that require attention in respect to the draft lease issued to us on Wednesday 7 February 2015.

The two issues are;

Public Area Setback. The previously agreed public set back would be 10 metres, which is Public Access Area, was agreed by all parties. It now seems that a decision has been made, not agreed to by all parties, that the public set back area would now be 20 metres. This would apply to the North Eastern point of the lease area.

Contrary to previous meetings and agreements with the Shire, confirming the setting of a 10 metre public access, licensed set back, would apply.

A meeting was then held between the Shire, Department of Lands and the Surveyor , to the exclusion of Lakeside Resort Director (Owner??), in which the boundary limits were amended to reflect a change to this point to approximately 20 metres. In my opinion this action was unfair and not in the best interest of all parties as I was not permitted the opportunity to provide input into any decision that was undertaken.

It was my intention initially to erect a removable Caravan Park cabin type construction on part of the area that is now deemed unavailable. The purpose was that the site was to be utilised as a joint security point and temporary seasonal Managers residence.

During subsequent discussion in the interim, and on advice received that Shire Officers, **would not support** any application put to Council for the erection of a removable caravan park cabin type construction, (on the land now deemed unavailable) for use as a joint security point, temporary seasonal managers residence. This advice contravenes any future application that may be submitted in relation to this matter and importantly could prejudice any decision of an application made at a Council Meeting in respect to that application.

It was further revealed that the Department. of Land had also agreed **not to support** the development application.

It is my considered opinion that opposition by the two Agencies to this concept was based on their joint decision, made without consultation with me, to alter the boundary of the Public Area Setback from 10 metres to 20 metres.

Accepting that given the stance of the two agencies to this concept , I agreed to **withdraw my objection ion to issue 1.**

2. **Commencement date of the renewed lease.** I have been advised that the commencement date for the new lease would be **incorrectly** back dated approximately 13 months, to be from the time of the receipt of the initial draft lease document. I strongly disagree with this terribly unfair decision and do not accept this decision in the strongest possible terms.

It should be noted that between the receipt of the initial draft and the discussions being undertaken at this time, a period as mentioned of 13 months, numerous enquiries were made by me as to the status of the approval process. I was advised that the document was with Landcorp Head Office in Midland and there it remained for much of this time.

It should be noted that during this inconvenient and unnecessary delay period there are three (3) examples that precluded me from developing my business:

1. Submitted were altered Caravan Park layout which resulted in the reduction of six (6) bays, effectively reducing the capacity from twenty eight (28) bays to twenty two (22) bays.
2. A change to the boundaries of the Public Access Area.
3. In October 2014, after the proposed start date of the renewed lease, a submission from Lakeside Resort was made to the Shire for development approval for the installation of power and water to Lakeside Resort, was not submitted by Shire staff for council consideration - apparently as a consequence of the non - currency of the lease at that stage which was after 1 March 2014.

I don't believe that the lease renewal should apply until all issues relating to the lease are resolved, agreed to and signed off by all parties. I believe the starting date for the lease should be the date of signing, after all issues and changes are agreed, including changes and alterations to boundaries that have been made during the delay period.

I would like all parties to know that I am terribly concerned about the latest developments as they stand and am very keen for them to be resolved to the satisfaction of all parties. My commitment to tourism in the Kununurra is unbending and I would be more than pleased to discuss my concerns with you and others at any time.

I look forward to receiving a favourable outcome.

Yours Sincerely,

Laurie Mckenzie
Owner
Kununurra Lakeside Resort
3 April 2015

Copy to:

- Jennifer Nynette - Department of Planning Shire of Wyndham East Kimberley
- Shire Councillors - Shire of Wyndham East Kimberley;
- Department of Land Administration - Kununurra Office

Laurie McKenzie

Director

Lakeside Resort "Kununurra With a View"

ph 08 91 69 1092 mob 041 892 1065

www.lakeside.com.au

Jennifer Ninnette

From: Louise Gee
Sent: Tuesday, 7 April 2015 11:55 AM
To: 'Laurie McKenzie'; Jennifer Ninnette; Cr Beau Robinson; Cr Darren Spackman; Cr Don Learbuch; Cr Gary King; 'Glenn Taylor'; Jennifer Ninnette; Cr John Moulden; Cr Keith Wright; Cr Raymond Dessert; Cr Sophie Cooke
Subject: RE: No Subject

Good morning Laurie,

Thank you for providing the issues you had in regards to the lease as requested following our meetings on Tuesday 24 March 2015. The matter will be presented to Council for consideration at the April 2015 Ordinary Council Meeting, in the interim please see below clarification.

Lease Area Setback

It is acknowledged that you do not want to proceed with re-survey to reduce the width of the licence area, and in turn increase the width of the lease area in the north west corner, which would ultimately increase the lease area by approximately 200m².

As per Department of Lands requirements, the proposed new reserve (to be the lease area) was surveyed on the basis of allowing a minimum 10 wide licence area from the water's edge. However as per agreement with the Shire and Department of Lands, there are some sections of the licence area that are slightly less than 10m in width to allow you to retain a number of existing bays, and in some areas the licence area is greater than 10m in width to allow for a practical and straight lease boundary.

As discussed, the larger setback in the north east corner was not anticipated. The Shire and Department of Lands met with the surveyor primarily to determine where the new reserve would connect to the Casuarina Way road reserve in the north east corner, and at this time also rationalised survey points to ensure a practical and appropriate lease boundary. This included confirmation that the lease/licence boundary in the north east corner should follow the top of the bank, which in this location is quite steep, with the licence area below being largely unusable and densely vegetated. During this inspection it was impossible to determine how wide the licence area would be as it was impossible to know where the existing boundary of Reserve 41812 was located.

It is acknowledged that it would have been appropriate to arrange for you to also attend this inspection.

As also discussed, neither the Shire or Department of Lands had prior knowledge of the proposed managers' residence in this location, and advised that they would not recommend approval of such development, however ultimately that the decision would be that of Council.

Commencement Date

The commencement date has not changed since all parties agreed to the terms of the lease. As you acknowledge, the finalisation of the lease was only held up due to the lengthy timeframe it took Landgate to check and approve the survey, which was required to finalise the new reserve and ultimately the lease area and land description details in the lease document.

As previously discussed, the previous reserve purpose (Foreshore and Recreation) did not appropriately cater for the Shire to lease the foreshore area to you for extension as a caravan park, and the purpose of the new reserve created (Caravan Park and Camping Ground, Boat Launching, Mooring and ancillary uses) to allow the Shire the ability to lease the adjoining foreshore land for this purpose, as well as provide for the minimum 10m wide licence area as required by the Department of Lands.

In relation to the submission from Lakeside Resort to obtain development approval for the installation of power and water to a number of bays within the foreshore area, I confirm that it was advised that the matter would not be considered until the lease was finalised.

It is noted that prior to your application to install water and power in this location that you were licenced for a total of 60 bays, and that your current 2015 Caravan Park and Camping Ground Licence is for 70 bays (including 10 overflow bays), however this does not include the 22 bays that you propose to be provided with power and water. Of the 70 bays that are licenced it is noted that 51 bays are located within the foreshore reserve area.

Although there are existing bays located along the western edge of the foreshore area (originally 28 and now proposed to be 22) it is noted that these bays are not included in your Caravan Park and Camping Ground licence, as you have not applied for these bays to be included in your licence, regardless of whether they are serviced.

A further response will be provided following Council's consideration of this matter.

Regards

Louise Gee
Acting Chief Executive Officer

SHIRE of WYNDHAM | EAST KIMBERLEY
20 Coolibah Drive, PO BOX 614 Kununurra WA 6743 | T: (08) 9168 4100 | M: 0408261882 | F: (08) 9168 1798 | www.swek.wa.gov.au

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 Please consider the environment before printing this email.

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Sent: Friday, 3 April 2015 8:08 AM
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Laurie Mckenzie
Owner
Kununurra Lakeside Resort
3 April 2015

Copy to:

- Jennifer Nynette - Department of Planning Shire of Wyndham East Kimberley
- Shire Councillors - Shire of Wyndham East Kimberley;
- Department of Land Administration - Kununurra Office

Laurie McKenzie

Director

Lakeside Resort "Kununurra With a View"

Ref: GPM/XLD/103482

LEASE
LOT 506 LAKE KUNUNURRA

SHIRE OF WYNDHAM EAST KIMBERLEY
("Lessor")

AND

INGLE PTY LTD (ACN 009 251 567)
("Lessee")

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THIS DEED is made

day of

2015

BETWEEN

SHIRE OF WYNDHAM EAST KIMBERLEY of PO Box 614, Kununurra, Western Australia 6743 (“Lessor”)

and

INGLE PTY LTD (ACN 009 251 567) of PO Box 1129, Kununurra WA 6743 (“Lessee”)

RECITALS

- A. The Land is Reserve 51637 and is reserved for the purpose of “Caravan Park and Camping Ground, Boat Launching, Mooring and ancillary uses”. The care, control and management of the Land has been placed by the Minister for Lands (the Minister) with the Lessor with power to lease for a term not exceeding TWENTY ONE (21) years, subject to the prior approval in writing of the Minister to any such lease or assignment of any such lease.
- B. At the request of the Lessee, the Lessor has agreed to lease the Premises to the Lessee on the terms and conditions contained in this Lease.

THE PARTIES COVENANT AND AGREE:

1. DEFINITIONS

Unless otherwise required by the context or subject matter:

Aboriginal Heritage Claim means a claim made under any law relating to aboriginal heritage including, but not limited to, the *Aboriginal Heritage Act 1972* (WA) from and including the Commencement Date;

Address means the address specified in this Lease or any other address which the Lessor by notice to the Lessee nominates;

Authorised Person means an agent, employee, licensee or invitee of the Lessee, and any person visiting the Improvements with the express or implied consent of any of the persons mentioned in this paragraph;

Authorised use means the authorised use specified in Item 12 of Schedule 1;

Business Day means any day which is not a Saturday, Sunday or gazetted public holiday in the State of Western Australia;

Commencement Date means the date specified in Item 3 of Schedule 1;

Consumer Price Index means the consumer price index compiled by the Australian Bureau of Statistics for the Perth (Capital City) Area (All Groups);

Costs and Expenses means the costs and expenses mentioned in clause 9;

CPI Rent Review Date means each CPI rent review date as specified in item 7 of Schedule 1;

Current CPI means the Consumer Price Index number last published before the relevant CPI Rent Review Date, or if an actuary is appointed under clause 5 to determine an index, the number certified by that actuary;

Encumbrance means a mortgage, charge, bill of sale, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in that caveat;

Event of Default means an event specified in clause 28;

Facility means a lavatory, sink, drain or other sewerage or plumbing facility, and a gas or electrical fitting or appliance in or on the Land or the Building;

Final Period means the period between the start of the final Lease Year before the date of Termination until the date of Termination;

Financial Year means a year beginning on 1 July and ending on the following 30 June;

First Period means the period between the Commencement Date and the last day of the first Lease Year;

Foreshore Area means the Foreshore Area referred to in item 1 of Schedule 3;

Further Term means each further term specified in Item 5 of Schedule 1;

Holding Over means holding over by the Lessee under clause 38;

Improvements means all of the development, construction and improvements on the Premises including (but not limited to) caravan and camping bays, Services, a jetty or jetties, boat ramps, traffic areas, and general landscaping of the Premises;

Insurance Company means a public insurance company carrying on business in Australia and authorised to operate as an insurance company under any applicable statute from time to time in force, but approval by the Lessor of an Insurance Company, insurance broker or an alteration in the terms of a policy does not imply any warranty by the Lessor in respect of that Insurance Company, that broker or those terms, or release the Lessee from any obligation or liability under this Lease;

Insured Risk means an event against which the Lessor or the Lessee insures including, but not limited to fire, explosion, earthquake, aircraft, riot, civil commotion, flood, lightning, storm, tempest, act of God, fusion, smoke, rain water, water leakage, impact by vehicles, machinery breakdown and malicious acts or omissions;

Interest means interest at the rate specified in Item 8 of Schedule 1;

Land means the land described in Item 2 of Schedule 1;

Lease means this deed, the Schedule and any attachments as amended from time to time;

Lease Year means a Financial Year or any other period of TWELVE (12) months nominated by the Lessor, and includes, where appropriate, the First Period and the Final Period;

Lessee's Covenants means the covenants, agreements and obligations contained or implied in this Lease or imposed by law to be observed and performed by any person other than the Lessor;

Lessee's Fixtures means each fixture installed in or on the Premises by the Lessee, including the Improvements and any sign erected or affixed to the Land by or on behalf of the Lessee;

Lessee's Proportion means the whole of the Variable Outgoings for the Premises;

Lessee's Rights means:

- (a) the right to use exclusively:
 - (i) the Lessor's Fixtures from time to time in the Premises; and
 - (ii) the Facilities in and the Services supplied to the Premises,together with all rights in favour of the Lessee contained or implied in this Lease and the right to install cables in the Improvements subject to the approval of the Lessor; and
- (b) the non-exclusive right to use:
 - (i) the Lessor's Fixtures in;
 - (ii) the Plant and Equipment in, on or serving;
 - (iii) the Facilities in; and
 - (iv) the Services supplying,any other part of the Premises, as required for the Authorised Use;

Lessor's Covenants means the covenants, agreements and obligations contained or implied in this Lease or imposed by law to be observed and performed by the Lessor;

Lessor's Fixtures means the fixtures specified in Item 9 of Schedule 1;

Lessor's Rights means:

- (a) the right to enter and install in the Premises cables, pipes and wires for the supply of a Service, Facility, telephone, electronic communication or other like service or facility for the Improvements or the Land or; and
- (b) all rights in favour of the Lessor contained or implied in this Lease or granted by law;

Managing Agent means the firm specified in Item 11 of Schedule 1 or any person, firm or corporation as the Lessor by notice to the Lessee nominates;

Minister means the Minister for Lands, a body corporate under section 7(1) of the *Land Administration Act 1997*;

Money Payable means the Rent and any other money payable by the Lessee under this Lease;

Party means the Lessor or the Lessee according to the context;

Plant and Equipment means any plant and equipment for or in connection with any Service or heating, cooling, lighting, power or plumbing serving the Land or the Improvements;

Premises means the premises specified in Item 1 of Schedule 1;

Previous CPI means the Consumer Price Index number last published before the date which is TWENTY FOUR (24) months before the relevant CPI Rent Review Date, or if an actuary is appointed under clause 6 to determine an index, the number certified by that actuary;

Rates and Taxes means:

- (a) council rates and charges including but not limited to, rubbish removal rates and charges and fire services;
- (b) land tax on a single holding basis;
- (c) water, drainage and sewerage rates, including but not limited to meter rents, charges for the disposal of storm water and excess water charges,

levied, charged, assessed or imposed in respect of any part of the Land, or the Premises or the ownership or occupation of any part of the Land or the Premises including but not limited to stamp and transaction duties, together with any related interest, penalties, fines and expenses in connection with them but excluding any tax imposed by the *Income Tax Assessment Act 1936*;

Rent means the rent specified in Item 6 of Schedule 1 as varied from time to time under this Lease;

Rent Review Date means each date specified in Item 7 of Schedule 1 and the relevant rent method expressed for each date;

Rent Review Notice means a notice given by the Lessor to the Lessee under clause 6.2 or clause 6.3;

Schedule means the schedules to this Lease;

Service means electricity, gas, oil, fuel, water or other like facility or service;

Term means the term specified in Item 4 of Schedule 1 and any Further Term;

Termination means the expiry of the Term or any period of holding over by effluxion of time or any earlier determination;

Variable Outgoings means all outgoings, costs and expenses of the Lessor, including Rates and Taxes assessed, charged, payable or incurred in respect of the Premises, Land or the Improvements including, but not limited to, the cost of:

- (a) insuring the Improvements or any part of the Improvements and any equipment or appliance in the Premises or the Improvements against fire, explosion, earthquake, aircraft, riot, civil commotion, flood, lightning, storm, tempest, fusion, smoke, rainwater, water leakage, impact by vehicles, machinery breakdown and malicious acts or omissions, loss of rent,

demolition and removal of debris, architects and other consultants fees, claims under Workers Compensation legislation, and statutory liability by employees of the Lessor working in or about the Improvements, owners third party liability and all other risks which the Lessor insures against;

- (b) compacting, storing and removing rubbish;
- (c) landscaping and maintaining any part of the Land and the Premises;
- (d) providing, maintaining, repairing, replacing, decorating, managing, administrating, controlling and securing any service or thing which the Lessor considers necessary or expedient or an improvement to the amenities of the Premises or the Land;
- (e) employing and providing facilities for staff for the matters mentioned in this definition;
- (f) legal fees and disbursements in relation to the matters mentioned in this definition;
- (g) providing motor vehicles, plant, equipment, tools and materials for the matters mentioned in this definition;
- (h) taxes and statutory charges associated with the matters mentioned in this definition including but not limited to payroll tax, financial institutions duty, bank debits tax, tax on goods or services and taxes of a type not charged at the Commencement Date; and
- (i) fees payable to the Managing Agent.

2. INTERPRETATION

- 2.1 Unless otherwise required by the context or subject matter, a reference to a party includes that party's executors, administrators, personal representatives, successors and assigns. If a party comprises 2 or more persons, a reference to a party includes the executors, administrators, personal representatives, successors and assigns of each of those persons.
- 2.2 If a party comprises 2 or more persons, the covenants and agreements bind and must be performed by each of them jointly and severally and may be enforced against any one or any 2 or more of them.
- 2.3 Where applicable, words denoting the singular include the plural, words denoting the plural include the singular, and words denoting a gender include each gender.
- 2.4 A reference to a statute includes a regulation, by-law, requisition or order made under that statute and any amendment to or re-enactment of that statute, regulation, by-law, requisition or order in force from time to time.
- 2.5 Subject to any provision to the contrary, a reference to any other deed, agreement or instrument includes a reference to that other deed, agreement or instrument as amended, supplemented or varied from time to time.
- 2.6 When the day or last day for doing an act is not a business day, the day or last day for doing the act will be the next following business day.

- 2.7 Except in the Schedule, headings in this Lease do not affect its interpretation.
- 2.8 Where applicable, a reference to a body corporate includes a natural person, and a reference to a person includes a body corporate.

3. GRANT OF LEASE

The Lessor leases and grants the Lessee's Rights to the Lessee and the Lessee takes a lease of the Premises subject to the Encumbrances for the Term and subject to the payment of the Rent and any other Money Payable and the observance and performance of the Lessee's Covenants, but reserving to the Lessor the Lessor's Rights.

4. QUIET ENJOYMENT

Subject to any contrary provision and subject to the observance and performance of the Lessee's Covenants, the Lessee may quietly hold the Premises and enjoy the Lessee's Rights during the Term without any interruption or disturbance from the Lessor.

5. RENT

The Lessee must pay the Rent (without deduction or offset) by one annual instalment in advance commencing on the Commencement Date and thereafter on each anniversary of that date during the Term except that the first and final payments will be apportioned on a daily basis if they are in respect of periods of less than a year.

6. RENT REVIEW

6.1 General

On each Rent Review Date, the Rent shall be reviewed in the manner set out in the following paragraphs of this clause 6.

6.2 CPI Rent Review

- (a) With effect from each CPI Rent Review Date, the Rent shall be reviewed so that it is the greater of the sums calculated on the basis of the formulae contained in sub paragraphs 6.2(a)(i) and 6.2(a)(ii).

- (i) **RR = (R X CCPI) divided by PCPI**

Where:

"RR" = the annual Rent as reviewed;

"R" = the annual Rent payable immediately before the relevant CPI Rent Review Date;

"CCPI" = the Current CPI; and

"PCPI" = the Previous CPI.

- (ii) **RR = R + (R x PMI)**

Where:

- “RR” = the annual Rent as reviewed;
- “R” = the annual Rent payable immediately before the relevant CPI Rent Review Date; and
- “PMI” = the percentage of minimum increase (if any) specified in Schedule 1 next to each CPI Rent Review Date.

(b) The Lessor may not earlier than THREE (3) months before a CPI Rent Review Date give the Lessee a notice setting out the amount of the reviewed Rent which shall be payable from the CPI Rent Review Date (“**CPI Rent Review Notice**”), except that the failure of the Lessor to give such a notice before the CPI Rent Review Date does not preclude the Lessor from giving such a notice in respect of that CPI Rent Review Date at any later time.

(c) **Determination of Current CPI or Previous CPI**

If for the purposes of a CPI Rent Review, the Consumer Price Index number is not published or, in the opinion of the Lessor there is a material change in the basis on which the Consumer Price Index is determined, or no Consumer Price Index number was published in the period before the relevant CPI Rent Review Date for the purposes of determining Previous CPI, then the Lessor may appoint an actuary from the Fellows of the Institute of Actuaries of Australia to determine:

- (i) in respect of Current CPI, an index number which reflects the prevailing levels of prices for the Perth metropolitan area at that CPI Rent Review Date; and
- (ii) in respect of Previous CPI, an index number which reflects the prevailing levels of prices for the Perth metropolitan area at the new date which is TWENTY FOUR (24) months prior to that CPI Rent Review Date;

and the actuary’s determination will be binding on the Lessor and the Lessee and the Lessor and the Lessee will pay the actuary’s costs in equal shares.

7. NOT TO CAUSE RENT REDUCTION

The Lessee must not by any act or omission cause, directly or indirectly, the Rent to be reduced or impose on the Lessor any liability of the Lessee under this Lease unless obliged to do so by any statute or with the consent of the Lessor.

8. RATES AND TAXES AND VARIABLE OUTGOINGS

8.1 The Lessee must pay to the Lessor within TEN (10) Business Days, or if the demand is made to the Lessee by any statutory authority then to that authority on demand, in full all Rates and Taxes and other outgoings separately assessed or imposed by any statutory authority or other service provider solely in respect of the Premises, including but not limited to telephone services, electricity, gas and other power and light charges and expenses, including, but not limited to:

- (a) charges and assessments for use under assessments or meter readings;
 - (b) meter rents; and
 - (c) the cost of installation of any meter, wiring or other apparatus necessitated by the use of electricity, gas and other power.
- 8.2 The Lessee must pay to the Lessor, within TEN (10) Business Days of receipt of the notice of demand, the Lessee's Proportion of Variable Outgoings relating to the Premises.
- 8.3 Except in the case of manifest error, a statement issued by the Lessor under this clause will be prima facie evidence of the matters stated in that statement.
- 8.4 If the Variable Outgoings includes any tax on goods or services, the Lessee must also pay that tax to the Lessor.

9. COSTS AND EXPENSES

The Lessee must pay to the Lessor or as the Lessor directs, all the Lessor's reasonable costs, charges and expenses in connection with:

- (a) the negotiation, preparation, execution, settlement and stamping of this Lease;
- (b) any consent, approval or exercise of any right, waiver, variation, release, surrender or discharge in connection with this Lease, including but not limited to all costs and expenses of and incidental to the preparation and service of a notice under section 81 of the *Property Law Act 1969*;
- (c) any inspection or report concerning the Premises;
- (d) any breach of the Lessee's Covenants;
- (e) any work done at the request of the Lessee;
- (f) the exercise or attempted exercise of the Lessor's Rights;
- (g) any action, suit or proceeding to which the Lessor is joined as a party as a result of the Lessee's occupation of the Premises;
- (h) advertising costs in accordance with the *Local Government Act 1995*;
- (i) all valuation costs in respect of this Lease;

and such costs, charges and expenses include, but are not limited to:

- (j) taxes and fees and fines and penalties which may be payable in connection with this Lease;
- (k) all legal costs and expenses on a full indemnity basis or solicitor and own client basis whichever is the higher; and
- (l) all interest which the Lessor is entitled to claim.

10. INTEREST ON OVERDUE MONEY

If any Rent or other Money Payable is unpaid for FOURTEEN (14) days, whether demand is made or not, the Lessee must pay to the Lessor on demand Interest on that Rent or other Money Payable, computed from the due date for payment until payment, and such payment will not affect any of the Lessor's Rights.

11. LESSEE TO MAINTAIN PREMISES AND IMPROVEMENTS

The Lessee must:

- (a) maintain the Premises in a good condition and state of repair, except in respect of:
 - (i) fair wear and tear; and
 - (ii) damage which is or will be reinstated from the proceeds of insurance;
- (b) promptly repair any damage to the Premises or Improvements for which the Lessee is responsible to the satisfaction of the Lessor;
- (c) keep the Premises clean and free from rubbish and keep all rubbish in suitable receptacles;
- (d) maintain the Lessor's Chattels, the Lessor's Fixtures, the Lessee's Fixtures and the Improvements in good condition and where necessary, replace that Lessor's Chattel, Lessor's Fixture, Lessee's Fixture or the Improvements to the satisfaction of the Lessor except in respect of:
 - (i) fair wear and tear; and
 - (ii) damage which is or will be reinstated from the proceeds of an insurance policy;
- (e) not do or omit to do anything which might cause the Premises, the Lessor's Chattels, the Lessor's Fixtures, the Lessee's Fixtures or the Facilities to deteriorate or become impaired except for fair wear and tear, to be obstructed, or to be in a condition other than a good and sanitary condition;
- (f) maintain the Lessor's Chattels, the Lessor's Fixtures, the Lessee's Fixtures and the Facilities in clean and good condition;
- (g) promptly replace any broken glass in the Premises, the Lessor's Fixtures or the Lessee's Fixtures;
- (h) not without the Lessor's prior consent, install any electrical equipment on the Premises which might overload the cables, switchboards or sub-boards through which electricity is connected to the Leased Premises or any fixtures (including any Improvement);
- (i) not without the Lessor's prior written consent interfere with the drainage or water supply facilities serving the Premises or the Improvements or any equipment connected to such facility;
- (ii) not without the Lessor's prior consent, erect or place on or in the Premises any radio or television aerial or antenna;

- (j) keep all drains and other pipes in or connected to the Premises or any fixtures (including any Improvement) properly cleaned and free-flowing;
- (k) maintain the garden, lawns, edges, hedges, shrubs and trees, to water and fertilise them regularly and adequately, to keep the flower beds and lawns free of weeds, and to not remove or cut down any plants, trees or shrubs;
- (l) maintain all paved areas and keep them clean and tidy; and
- (m) maintain all roads, driveways and access ways on the Leased Premises and keep them free of rubbish and debris and ensure that they are not obstructed.

12. MAINTENANCE OF LESSOR'S FIXTURES

The Lessee must:

- (a) maintain the Lessor's Fixtures and the Facilities in the Premises in good condition and replace any damaged items excepting fair wear and tear and damage caused by an event which is the subject of an Insured Risk which the Lessor has insured against, but if payment of the insurance money in respect of that damage is refused or reduced by reason of a default of the Lessee, the Lessee must in respect of that damage maintain the Lessor's Fixtures and the Facilities in the Premises in good condition to the extent that payment of that insurance money is refused or reduced, except that the Lessee's obligation is reduced to the extent that payment of insurance money under the Lessor's insurance policy is refused or reduced by reason of an act or default of the Lessor;
- (b) if the Lessee is liable to replace any of the Lessor's Fixtures or the Facilities in the Premises, replace that Lessor's Fixture or Facility with an item of similar quality, colour and design, and carry out the replacement to the satisfaction of the Lessor; and
- (c) keep the Facilities within the Premises unobstructed.

13. USE OF THE PREMISES

The Lessee Covenants with the Lessor as follows:

13.1 Generally

Not to use or permit the Premises to be used for any purpose other than for the purpose specified in Item 12 in Schedule 1.

13.2 Maintenance

To maintain, rehabilitate and stabilise the Foreshore Area and the Premises as may be necessary to permit continuous access by the public to infrastructure and to approved structures upon the Land.

13.3 Foreshore Bank

Not to modify, or permit the modification of, the foreshore bank of the Foreshore Area except in accordance with the Improvements referred to in Schedule 2.

13.4 **Improvements and Additions**

Not to erect, construct, build, install or bring any buildings or structures of a permanent nature on the Premises or make any other alterations, additions or improvements on the Premises except in accordance with Schedule 2 of the Lease.

13.5 **Foreshore Vegetation**

Not to remove any vegetation from the Premises or the Foreshore Area EXCEPT:

- (i) in accordance with a foreshore management/rehabilitation plan approved by the Lessor (if required);
- (ii) exotic species considered to be pest or weed species;
- (iii) in the case of native vegetation, with the prior written consent of the Lessor and all approvals required by law; and
- (iv) by mechanical means rather than chemical application methods to the extent practicable.

The Lessee must ensure that all areas from which vegetation may have been removed by the Lessee prior to the execution of this lease or is removed in the future shall be promptly rehabilitated and re-vegetated with local or native species in order to minimise soil erosion and run-off.

13.6 **Water Use Conservation**

The Lessee must conduct all reticulation and irrigation activities on the Premises in accordance with best practice water conservation principles.

13.7 **State Government Planning Policies**

The Lessee must observe, perform and comply with the provisions of all present and future State Government planning policies that affect the Land and/or the adjacent waterway (for example, the *Policy and Guidelines for Recreation and General Access on Crown Land with Public Drinking Water Source Areas and Other Water Source Catchments*.)

14. **MISCELLANEOUS RESTRICTIONS ON USE**

The Lessee must not:

- (a) use or permit anyone to use the Premises for an immoral or unlawful purpose;
- (b) do or carry on in the Premises any thing which causes a nuisance, damage, or disturbance;
- (c) do or carry on in the Premises any harmful, offensive or illegal act, matter or thing;

- (d) place any rubbish on any part of the Premises except in a place for disposal of that type of rubbish;
- (e) burn any rubbish on the Premises; or
- (f) fail to remove on a regular basis any rubbish of a kind not removed by the local authority.

15. INFLAMMABLE SUBSTANCES

The Lessee must not except for reasonable quantities for normal applications in connection with the use of the Premises permitted by the Lessor use or store any chemical or inflammable substances within the Improvements.

16. ADVERTISEMENTS OR NOTICES

The Lessee must not display from or affix to the Premises or any other part of the Improvements any advertisement or notice visible from outside the Premises without the prior consent of the Lessor which the Lessor may not unreasonably withhold in the case of a notice stating the name and business of the Lessee affixed in a place immediately adjacent to the Premises.

17. ENTRY BY LESSOR

The Lessor or a person authorised by the Lessor may enter the Premises and Improvements at reasonable times after giving the Lessee reasonable written notice of entry, or on demand in the case of an emergency, with or without workmen and others, and with or without plant, equipment and materials, to:

- (a) inspect the state of repair of the Premises and Improvements and to ensure that there is no breach of the Lessee's Covenants;
- (b) maintain or repair the Premises and Improvements;
- (c) maintain, repair or alter the Services or any cables, pipes or wires within the Premises and Improvements;
- (d) carry out works required by a statutory authority;
- (e) maintain, service, install or remove any Plant and Equipment;
- (f) remove harmful substances;
- (g) comply with any requirement, notification or order of an authority having jurisdiction or authority over or in respect of the Premises or the Improvements for which the Lessor is liable under this Lease; and
- (h) view the Premises or Improvements with persons having or seeking an interest in the Premises or Improvements or any part thereof, financiers, insurers and other similarly interested persons,

and the Lessor must use its best endeavours not to cause any undue inconvenience to the Lessee.

18. EASEMENTS

18.1 Subject to clause 18.2, the Lessor may:

- (a) grant rights of support to any owner, Lessee, occupier or other person interested in land adjacent to or near to the Premises or any public authority;
- (b) transfer any part of the Land; or
- (c) grant or create any easement or privilege in favour of any person or public authority over or affecting the Premises.

for the purpose of providing:

- (d) a public or private entrance to or exit from;
- (e) a support for a structure erected on;
- (f) the supply of a Service, Facility or telephone or electronic communication to; or
- (g) any other right, privilege or facility for,
the Premises, or any other land.

18.2 The Lessor must not transfer, grant or create any easement, right or privilege, which substantially and permanently derogates from the Lessee's Rights without first obtaining the Lessee's consent.

19. INSPECTION BY PROSPECTIVE LESSEES OR PURCHASERS

The Lessor or a person authorised by the Lessor may:

- (a) enter the Premises or Improvements to allow prospective purchasers or Lessees of the Premises to inspect the Premises; or
- (b) within THREE (3) months before the end of the Term, display outside the Premises a sign containing any information which the Lessor sees fit indicating the availability of the Premises for lease or other occupation.

20. PLANT AND EQUIPMENT AND FIXTURES

20.1 The Lessee must:

- (a) not use any Facility, Plant and Equipment or Lessor's Fixtures for a purpose other than that for which it was designed;
- (b) comply with the reasonable requirements of the Lessor relating to the Plant and Equipment;
- (c) not do anything which might interfere with or impair the efficient operation of the Plant and Equipment; and
- (d) not install any electrical equipment on the Premises which might overload the cables, switchboards or sub-boards, through which electricity is connected to the Premises.

20.2 If the Lessee wishes to install any electrical equipment on the Premises which might overload the cables, switchboards or sub-boards through which electricity is connected to the Premises and the Lessor grants its consent, and the Lessor considers that any alteration is necessary to comply with the requirements of the Lessor's insurance underwriters or with any statute in force from time to time, then:

- (a) that alteration will be effected by the Lessor at the expense of the Lessee;
- (b) the Lessee must pay the entire cost of the alteration to the Lessor on demand by the Lessor; and
- (c) if required by the Lessor the Lessee must deposit with the Lessor the estimated cost of the alteration before commencement of any work.

21. INSURANCE

The Lessee must:

- (a) maintain with an Insurance Company approved by the Lessor in the names of the Lessee and the Lessor and, if required by the Lessor, any mortgagee of the Lessor, for their respective rights and interests:
 - (i) adequate public risk insurance to a sum insured of at least the amount specified in Item 10 of Schedule 1 in respect of any one claim or any higher amount required by the Lessor from time to time;
 - (ii) insurance against the Insured Risk to a full insurable value on a replacement or reinstatement basis in respect of the Lessee's Fixtures;
 - (iii) a policy of employers' indemnity insurance including workers' compensation insurance in respect of all employees of the Lessee employed in, about or from the Premises;
 - (iv) a policy of insurance against all risks in respect of the Improvements; and
 - (v) other insurances in connection with the Premises which a prudent Lessee leasing premises comparable with the Premises would take out or which are reasonably specified by the Lessor; and
- (b) in respect of the insurances referred to above:
 - (i) supply to the Lessor details;
 - (ii) produce each policy or certificate of insurance and each receipt for premiums or certificates of currency issued by an Insurance Company or insurance broker approved by the Lessor when required to do so by the Lessor;
 - (iii) pay each premium at least SEVEN (7) days before the due date, and when asked by the Lessor, produce receipts for the payments;
 - (iv) immediately rectify anything which might prejudice any insurance and re-instate the insurance if it lapses;
 - (v) notify the Lessor immediately when:

- (A) an event occurs which gives rise or might give rise to a claim under or which could prejudice a policy of insurance; or
- (B) a policy of insurance is cancelled; and
- (vi) ensure that the insurer has no right of subrogation against the Lessor;
- (vii) not do or omit to do any act or thing which might render the insurance on the Premises void or voidable, or which might cause the rate of premium to be increased, and if the Lessor approves in writing any proposal of the Lessee to add to or increase any risk which is covered by insurance, pay all additional premiums resulting from the additional or increased risk.

22. LESSEE'S INDEMNITIES

- 22.1 The Lessee indemnifies and keeps indemnified the Lessor and the Minister against each claim, demand, loss, damage or Costs and Expenses arising from or incurred in connection with any damage to the Premises or any loss of or damage to anything in it or near it, and any injury to any person in or near the Premises, caused or contributed to by the act, negligence or default of the Lessee or some danger created by the Lessee, whether or not the existence of that danger was or ought to have been known to the Lessee.
- 22.2 The Lessor and the Minister are not liable in respect of any liability or loss resulting from:
- (a) any act or omission of any other person in the Premises;
 - (b) any malfunction, breakdown, interruption or failure in relation to the supply of services to the Premises;
 - (c) any other accident, damage or malfunction affecting the Premises, including, but not limited to, any blocked drains, pipes or conduits, any overflow of water or any break in wires or cables; or
 - (d) damage to or loss of anything or injury to any person in or near the Premises due to any cause other than the negligence or default of the Lessor or the Minister or any employee or agent of the Lessor or the Minister.
- 22.3 The Lessee's obligation to indemnify the Lessor and Minister under this Lease or by law is unaffected by the obligation of the Lessee to effect insurance and the obligation of the Lessee to indemnify is paramount.
- 22.4 To the extent permitted by law, the Lessee must on demand pay to the Lessor an amount equal to all money paid by the Lessor in respect of any liability of the Lessee under this Lease.
- 22.5 The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Premises.
- 22.6 The Lessee's obligation under clause 22.1 is relieved to the extent that payment of insurance money under the Lessor's insurance policy (if any) in

respect of that obligation is received by the Lessor, or refused or reduced by reason of an act or default of the Lessor.

- 22.7 Unless this Lease provides otherwise, whenever the Lessee is obliged or required by this Lease to do or omit to do any act or thing, the doing or the omission of that act or thing will be at the sole risk and expense of the Lessee.
- 22.8 Subject to clause 22.6, and without limiting the generality of clauses 22.1 and 22.5, the Lessee indemnifies and keeps indemnified the Lessor and the Minister against each claim, demand, loss, damage or Costs and Expenses for which the Lessor or the Minister become liable in respect of:
- (a) any overflow or leakage of water or other fluids in or from the Premises or the Improvements except where the flow or leakage is not caused by or due to any act or omission of the Lessee or an Authorised Person;
 - (b) the cost of repair or replacement in respect of any damage caused to any part of the Improvements, any item of Plant and Equipment, or any Facility, outside the Premises if that damage is caused by misuse by the Lessee or an Authorised Person; and
 - (c) the cost of repair or replacement of any Plant and Equipment or Facility within the Premises or Improvements if it is damaged and that damage is caused by or contributed to by the Lessee or an Authorised Person.

23. LIMIT OF LESSORS LIABILITY

- 23.1 The Lessor will not be liable for any failure to perform or observe the Lessor's Covenants due to any reason beyond the direct control of the Lessor.
- 23.2 The Lessor will not be liable for loss, damage or injury to any person or property in or about the Land, the Improvements or the Premises however occurring unless caused by the negligence of the Lessor or its employees.
- 23.3 Each Lessor is only liable for breaches of the Lessor's Covenants occurring while that person is the registered proprietor of the Land.

24. REPORT TO LESSOR

The Lessee must report promptly to the Lessor or the Managing Agent in writing and in the case of emergency, verbally:

- (a) any damage to or defect in the Premises the Improvements, the Lessor's Fixtures, the Plant and Equipment or the Facilities in the Premises of which the Lessee is or ought to be aware;
- (b) any malfunction of any Facility either within the Premises or Improvements or used by the Lessee;
- (c) any notice or order received from any court relating to the Premises or Improvements;
- (d) any notifiable infectious disease occurring in the Premises; and
- (e) any circumstances likely to:

- (i) be a danger; or
- (ii) cause any damage or danger;

to the Premises, the Improvements or any person on or in the Premises, or the Improvements of which the Lessee is aware.

25. CAVEATS

- 25.1 The Lessee must not lodge an absolute caveat over the Premises to protect the interest of the Lessee under this Lease.
- 25.2 The Lessee must surrender any registered lease and withdraw any caveat lodged by or on behalf of the Lessee over the Premises on Termination.
- 25.3 In consideration of the Lessor granting the Lessee the Lessee's Rights, the Lessee irrevocably appoints the Lessor and every officer of the Lessor as defined by the Corporations Act to be the attorney of the Lessee, in the name and on behalf of the Lessee, and as the act and deed of the Lessee to sign and lodge at Landgate, a surrender of lease or withdrawal of any caveat lodged by or on behalf of the Lessee and not surrendered or withdrawn on Termination, and the Lessee:
 - (a) undertakes to ratify all that the attorney does or causes to be done under or by virtue of this subclause; and
 - (b) indemnifies the Lessor in respect of any loss arising from any act done under or by virtue of this subclause, and the Lessor's costs and expenses of and incidental to the withdrawing of any caveat lodged by or on behalf of the Lessee affecting the Premises.
- 25.4 The Lessee hereby indemnifies, and shall keep indemnified, the Lessor against all loss or damage suffered by the Lessor as a result of the Lessee's failure to comply with this clause 25 on or before Termination.

26. NOT TO IMPEDE EXERCISE OF LESSOR'S RIGHTS

The Lessee must not impede the exercise of the Lessor's Rights.

27. COMPLIANCE WITH STATUTES

The Lessee must comply promptly with all statutes, rules and regulations from time to time in force relating to the Premises or the Improvements or the use of the Premises or the Improvements.

28. DEFAULT BY LESSEE

An Event of Default occurs if:

- (a) any Rent or other Money Payable remains unpaid for SEVEN (7) days after becoming due whether or not demand for payment is made;
- (b) the Lessee is in breach of any of the Lessee's Covenants other than covenants to pay Rent or other Money Payable for FOURTEEN (14) days after notice has been given to the Lessee;

- (c) a receiver, or an agent in possession for a mortgagee is appointed in respect of any property of the Lessee;
- (d) the Lessee vacates the Premises or ceases to trade without first assigning the Premises pursuant to clause 35;
- (e) a mortgagee takes possession of any property of the Lessee;
- (f) any execution or similar process is made against the Premises or the property of the Lessee;
- (g) the Lessee, being a natural person, commits an act of bankruptcy;
- (h) an application is made, a resolution is passed or a meeting is convened for the purpose of considering a resolution for the Lessee to be wound up unless the winding up is for the purpose of reconstruction or amalgamation;
- (i) a compromise or arrangement is made between the Lessee and its creditors;
- (j) a resolution is passed, or a meeting is convened for the purpose of considering a resolution for the Lessee to be placed under official management;
- (k) the Lessee admits in writing its inability to pay its debts;
- (l) an application is made to a court for an order summoning a meeting of any class of creditors of the Lessee;
- (m) an application is made or notice given or other procedure commenced for the dissolution or cancellation of the registration of the Lessee under the Corporations Act or any similar process;
- (n) an investigation is commenced under section 13 of the *Australian Securities and Investments Commission Act* to investigate the affairs of the Lessee;
- (o) the Lessee is in breach of an instrument other than this Lease giving the Lessee a right to occupy any part of the Premises or the Improvements;
- (p) distress is levied or a judgement, order, security or encumbrance is enforced against any property of the Lessee; or
- (q) a receiver or receiver and manager or controller as defined in the Corporations Act is appointed in respect of any part of the Lessee's property.

29. LESSOR MAY RETAKE POSSESSION

- 29.1 After an Event of Default has occurred and without any notice or demand, the Lessor may at any time enter the Premises and on re-entry the Term will immediately determine but without affecting any of the Lessor's Rights or releasing the Lessee from liability with respect to the Lessee's Covenants.
- 29.2 The costs of re-entry or repossession by the Lessor are to be borne by the Lessee.

30. EXERCISE OF LESSOR'S RIGHTS

- 30.1 The exercise by the Lessor of the Lessor's Rights will not be affected by demand for, or acceptance of the Money Payable by the Lessor after an Event of Default has occurred, and such demand or acceptance will not operate as an election by the Lessor either to exercise or not to exercise the Lessor's Rights.
- 30.2 If the Lessee fails to pay any Money Payable or does or fails to do any thing, the Lessor may without affecting any right, remedy or power arising from that default:
- (a) pay that Money Payable or do or cease the doing of that thing or both as if it were the Lessee; and
 - (b) enter and remain on the Premises for that purpose;
- and the Lessee must pay to the Lessor on demand the Lessor's cost of remedying each breach or default.
- 30.3 The Lessor may exercise the Lessor's Rights without proof of default by the Lessee or the continuance of that default, or notice being required other than is provided in this Lease, and notwithstanding laches, neglect or previous waiver by the Lessor in respect of any breach of the Lessee's Covenants or the exercise of the Lessor's Rights.

31. BREACH OF ESSENTIAL TERMS

- 31.1 Each of the Lessee's Covenants specified in clauses 5, 8, 11, 12, 13, 14, 21, 27 and 31 are essential terms of this Lease, except that this clause must not be construed to mean that there are no other essential terms in this Lease.
- 31.2 The Lessee must compensate the Lessor for any breach of an essential term and the Lessor is entitled to recover damages from the Lessee in respect of such breaches in addition to any other remedy or entitlement of the Lessor, including the right to determine the Term.
- 31.3 If the Term is determined:
- (a) for a breach of an essential term by the Lessor accepting a repudiation of this Lease by the Lessee; or
 - (b) after the Lessee's failure to comply with a notice to remedy any default;
- the Lessee must pay to the Lessor on demand:
- (c) the Rent and other Money Payable for the unexpired balance of the Term as if the Term had expired by the effluxion of time; and
 - (d) damages for damage suffered as a result of the early determination, including but not limited to all costs of reletting or attempting to re-let the Premises, less the rent and other money payable which the Lessor reasonably expects to recover by reletting the Premises for the period between the date of termination and the date on which the Term would have expired by effluxion of time, but the Lessor must take reasonable steps to mitigate its losses.

- 31.4 A certificate given to the Lessee by the Lessor of the amount of the Rent and Variable Outgoings under clause 31.3 will be conclusive as between the Parties except in the case of manifest error.
- 31.5 The Lessor's entitlement to recover damages under this clause is not prejudiced or limited by:
- (a) the Lessee abandoning or vacating the Premises;
 - (b) the Lessor electing to re-enter the Premises and determining the Term;
 - (c) the Lessor accepting the Lessee's repudiation of this Lease; and
 - (d) the parties' conduct constituting a surrender of the Term by operation of law.
- 31.6 The Lessor may without prejudice to any other remedy, sue the Lessee for any Money Payable which may from time to time become due and owing by the Lessee to the Lessor and in particular, the Lessor may:
- (a) sue for any instalments of Rent or Variable Outgoings as and when those instalments become due; and
 - (b) by a separate suit or suits sue for any further sum or sums which may be found to be due and owing by the Lessee to the Lessor on the completion of the calculations made at the end of each Lease Year;

and neither the institution of any suit nor the entering of judgement in any suit will bar the Lessor from bringing a separate or subsequent suit or suits for the balance of the Money Payable.

32. THE IMPROVEMENTS ON TERMINATION

- 32.1 Upon Termination of the Lease, the Improvements shall at the sole discretion and direction of the Lessor be removed by the Lessee and at the cost of the Lessee or alternatively shall be retained on the Premises and vested in the Lessor.
- 32.2 If the Lessee is directed by the Lessor to remove the Improvements upon Termination of the Lease and the Lessee fails to do so within TWO (2) months of the Termination date then the Lessor may remove the Improvements and recover the costs of removal from the Lessee as a debt due and payable.

33. YIELD UP AND SURRENDER KEYS

- 33.1 On Termination, the Lessee must peaceably surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants and, if required by the Lessor, construct and/or reinstate a fence along the boundary of the Premises and the Lessee's adjoining property (at the Lessee's cost).

34. REMOVAL OF LESSEE'S FIXTURES

- 34.1 Prior to Termination, the Lessee must remove from the Premises, the Improvements and the Land all the Lessee's Fixtures and property of the

Lessee and any of the Lessor's Fixtures installed by the Lessee which the Lessor requires the Lessee to remove, and promptly make good to the satisfaction of the Lessor any damage caused by that removal.

- 34.2 On re-entry by the Lessor, the Lessor may remove any property of the Lessee left in or about the Premises and the Lessee must indemnify the Lessor against all damage caused by the removal of and the cost of storing that property.
- 34.3 At Termination, the Lessor may, with respect to any Lessee's Fixtures and property belonging to the Lessee not removed at Termination:
- (a) sell or dispose of such property at the Lessee's cost and offset any proceeds of sale after deduction of costs of sale against any unpaid Money Payable; or
 - (b) accept that such property is the absolute property of the Lessor and dispose of such property as the Lessor thinks fit.
- 34.4 In respect of any period until either the Lessor exercises an option under clause 34.3 above, or the damage caused by the removal of the Lessee's Fixtures or property is made good, whichever is the later, the Lessee must pay to the Lessor by way of damages an amount equal to the amount in respect of Rent and Variable Outgoings which would have been payable by the Lessee if the Lessee were holding over the Premises during that period.

35. ASSIGNMENT

- 35.1 The Lessee must not assign, mortgage or charge the leasehold estate in the Premises or any part of the Premises, nor sublet, part with possession or dispose of the Premises without the prior written consent of the Lessor and the Minister and except under this clause.
- 35.2 Sections 80 and 82 of the *Property Law Act 1969* are excluded.
- 35.3 If the Lessee is a corporation other than a public company within the meaning of the Corporations Act, any change in the beneficial ownership, issue or cancellation of shares in that corporation or any holding company of that corporation within the meaning of the Corporations Act will be deemed to be an assignment of the leasehold estate created by this Lease.
- 35.4 The Lessor may not unreasonably withhold its consent to an assignment of the leasehold estate created by this Lease if:
- (a) the proposed assignee is a respectable and responsible person of good financial standing, the onus of satisfying the Lessor of this fact being on the Lessee;
 - (b) all Money Payable then due or payable has been paid and there is no existing unremedied breach of the Lessee's Covenants;
 - (c) the Lessee procures the execution by the proposed assignee of a deed of assignment to which the Lessor is a party prepared and completed by the Lessor's solicitors at the cost of the Lessee in all respects;

- (d) the assignment contains a covenant by the assignee with the Lessor to pay all Money Payable and to perform and observe all the Lessee's Covenants;
- (e) if the proposed assignee is a corporation other than a public company within the meaning of the Corporations Act, the directors or substantial shareholders of that corporation guarantee to the Lessor the observance and performance by the assignee of the Lessee's Covenants including payment of all Money Payable;
- (f) the Lessee pays the Lessor's costs and expenses of and incidental to any enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee and all other matters relating to the proposed assignment, whether or not the assignment proceeds; and
- (g) the Lessee procures the execution by the proposed assignee of an acknowledgment that the proposed assignee has received a copy of the Lessor's estimated Variable Outgoings for the relevant Lease Year.

35.5 If the assignee is a corporation the shares in which are not quoted on any stock exchange in Australia, it will be a term of the Lessor's consent to the deed of assignment that the directors or the substantial shareholders, at the option of the Lessor, of that corporation guarantee to the Lessor the observance and performance by the assignee of the Lessee's Covenants including payment of all Money Payable.

35.6 The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not in any way relieve or be deemed to relieve the Lessee from the Lessee's Covenants.

36. DESTRUCTION OR DAMAGE TO PREMISES

36.1 Definitions

In this clause 36:

- (a) **"Reinstatement Notice"** means a notice given by the Lessor to the Lessee that the Lessor requires the Lessee to diligently proceed within a reasonable time to carry out the Reinstatement Works; and
- (b) **"Reinstatement Works"** means the work necessary to:
 - (i) reinstate the Premises and the Improvements; or
 - (ii) make the Premises and the Improvements fit for occupation and use or accessible by the Lessee.

36.2 Abatement

- (a) If the Premises and the Improvements are damaged or destroyed so as to render any part of the Premises and the Improvements wholly or substantially:
 - (i) unfit for occupation and use by the Lessee and the general public; or

- (ii) inaccessible having regard to the nature and location of the Premises and the Improvements and the normal means of access to them;

AND in either case

- (iii) the Lessee's insurance moneys are rendered irrecoverable as a consequence of an act, omission or default by the Lessor, its servants, agents or contractors;

then from the date that the Lessee notifies the Lessor of the damage or destruction ("**Damage Notice**"):

- (iv) the Rent;
- (v) any other money payable by the Lessee under this Lease; and
- (vi) the covenant to repair and maintain;

will abate according to the nature and extent of the damage or destruction sustained.

(b) If clause 36.2(a) applies, the remedies for:

- (i) recovery of the Rent and any other money or a proportionate part falling due after the damage or destruction; or
- (ii) enforcement of the covenant to repair and maintain;

will be suspended (or partially suspended as the circumstances require) from the date of the Damage Notice until the Premises and the Improvements are:

- (iii) restored;
- (iv) made fit for the Lessee's occupation and use; and
- (v) made accessible.

36.3 Either Party May Terminate

If clause 36.2(a) applies, either party may terminate this Lease by notice to the other unless the Lessor within NINETY (90) calendar days of receiving the Damage Notice, gives the Lessee a Reinstatement Notice;

36.4 Lessee May Terminate

If the Lessee considers the damage to the Premises and the Improvements renders it impractical or undesirable to carry out the Reinstatement Works, the Lessee may terminate this Lease by giving not less than THIRTY (30) calendar days' notice to the Lessor and, at the expiration of that notice, this Lease will terminate.

36.5 Exceptions

Clauses 36.2, 36.3 and 36.4 will not apply where:

- (a) the damage or destruction was contributed to, or also caused by or arises from any wilful act of the Lessee or an Authorised Person; or
- (b) an insurer under any policy effected under this Lease refuses indemnity or reduces the sum payable under the policy because of any act or default of the Lessee or an Authorised Person.

36.6 Lessor may Terminate

If the Lessor gives a Reinstatement Notice to the Lessee and the Lessee fails to commence the Reinstatement Works within a reasonable time, the Lessor may terminate this Lease by giving not less than THIRTY (30) calendar days' notice to the Lessee and, at the expiration of that period, this Lease will terminate.

36.7 Antecedent Breaches

No liability will attach to either party because of termination of this Lease under this clause 36 but that termination will be without prejudice to the rights of either party for any antecedent breach or non-observance of any provision of this Lease.

36.8 Dispute Resolution

Any dispute arising out of the provisions of this clause 36 shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985 (WA)*, and the parties may each be represented by a legal practitioner of their choice.

36.9 Lessor Not Obligated to Reinstat

Nothing in this Lease obliges the Lessor to reinstate the Premises and the Improvements or the means of access to them.

36.10 Proceeds of Insurance

If the Premises and the Improvements are damaged or destroyed and the Lease is terminated under this clause 36, the insurance proceeds if any will be paid out to the party whose interest in the property was insured, and where the interest was jointly insured then apportioned according to the value of the insured property owned by the respective Parties.

36.11 Resumption of Premises

If the Premises or any part of the Premises is resumed by any authority so as to render the Premises inaccessible or substantially unfit for the occupation of the Lessee, this Lease may be terminated without compensation or other liability by either the Lessor or the Lessee by THIRTY (30) calendar days' notice to the other but without affecting the rights of either party against the other in respect of any previous breaches of the provisions of this Lease.

37. OPTION OF RENEWAL

Deleted – Not Applicable

38. HOLDING OVER

If after Termination the Lessee continues in possession of the Premises, the Lessee shall be deemed to be holding over as a monthly Lessee at a rent equal to the greater of the Rent payable immediately before Termination reviewed by reference to the CPI or the Rent payable immediately before Termination, and shall be reviewed in the same manner on each anniversary of the date of Termination and the Lessee's right to remain in possession of the Premises shall be subject to the continued performance of the Lessee's Covenants and may be determined by either party giving the other party ONE (1) months' notice of termination.

39. CONSENTS

The Lessor may, unless this Lease otherwise provides, withhold consent to any matter requiring consent without specifying any reasons.

40. ACT BY AGENTS

40.1 All acts and things which the Lessor is required or empowered to do under this Lease may be done by the Lessor or the solicitor, agent, contractor or employee of the Lessor.

40.2 The Lessor may at any time and from time to time appoint a Managing Agent to manage the Premises and the Managing Agent will, unless the Lessor directs in writing otherwise, represent the Lessor in all matters relating to this Lease, and the Lessor's direction will prevail over the Managing Agent's to the extent of any inconsistency.

41. LESSEE LIABLE FOR AUTHORISED PERSONS

The Lessee is liable for the acts or omissions of Authorised Persons arising out of and in connection with the rights and obligations created by this Lease.

42. NOTICE

A notice, demand or consent given or made to any person under this Lease:

- (a) must be in writing;
- (b) may be served by:
 - (i) delivering it to that person personally; or
 - (ii) addressing it to that person and leaving it or posting it to:

- (A) the address of that person appearing in this Lease;
 - (B) that person's usual or last known place of residence;
 - (C) that person's usual or last known place of business;
 - (D) where that person is a corporation, its registered office or principal place of business; or
 - (E) any other address nominated by that person by notice to the person giving the notice;
- (iii) sending a facsimile copy of the notice to the facsimile copier number nominated by that person by notice to the person giving the notice; and
- (c) will be deemed to be given or made:
- (i) in the case of personal delivery, when delivered;
 - (ii) in the case of service by leaving the notice at an address specified in paragraph (b), when left at that address unless the time of leaving a notice in the place in which it is left is not on a business day or is after 5 p.m. in the afternoon on a business day, when it will be deemed to be given or made on the next following business day in that place;
 - (iii) in the case of service by post, on the second business day following the date of posting; and
 - (iv) in the case of facsimile when despatched, unless the time of dispatch in the place to which it is sent is not a business day or is after 5 p.m. in the afternoon on a business day, when it will be deemed to be given or made on the next following business day in that place; and
- (d) may be signed:
- (i) if given by an individual, by the person giving the notice;
 - (ii) if given by a corporation, by a director, secretary or manager of that corporation; or
 - (iii) by a solicitor or other agent of the person giving the notice.

43. PROPER LAW

This Lease is governed by, and to be interpreted in accordance with, the laws of Western Australia and where applicable the laws of the Commonwealth of Australia.

44. SEVERANCE

If any part of this Lease is, or becomes void or unenforceable, that part is or will be, severed from this Lease to the intent that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

45. WAIVERS

45.1 Failure to exercise or delay in exercising any right, power or privilege in this Lease by a party does not operate as a waiver of that right, power or privilege.

45.2 A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege, or the exercise of any other right, power or privilege.

46. VARIATION

This Lease may be varied only by deed executed by the parties.

47. EFFECTIVE EXECUTION

This Lease is binding on each party who executes it notwithstanding the failure of any other person named as a party to execute it, and the avoidance or unenforceability of any part of this Lease.

48. FURTHER ASSURANCES

Each party must execute and do all acts and things necessary or desirable to implement and give full effect to the provisions and purpose of this Lease.

49. COUNTERPARTS

This Lease may be executed in any number of counterparts each of which is an original and all of which constitute one and the same instrument.

50. SURVIVAL OF WARRANTIES

A warranty given by a party in this Lease will not merge on the completion of the matters referred to, or contemplated by, this Lease, but will survive that completion even if any party has waived any right under this Lease, or failed to take proceedings for any breach.

51. ENTIRE AGREEMENT

This Lease constitutes the entire agreement between the parties and contains all the representations, warranties, covenants and agreements of the parties in relation to the subject matter of this Lease.

52. PAYMENT OF MONEY

Any sum of money to be paid to the Lessor must be paid to the Lessor at the Address or as otherwise directed by the Lessor by notice from time to time and Money Payable accrues on a daily basis.

53. MORATORIUM NOT TO APPLY

A provision of a statute which would, but for this clause extend or postpone the date of payment of the Money Payable, reduce the Interest or abrogate, nullify, postpone or otherwise affect any provision under this Lease does not apply to limit or affect the terms of this Lease.

54. GOODS AND SERVICES TAX

- 54.1 Words or expressions used in this clause 54 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.
- 54.2 Any consideration to be paid or provided for a supply made under or in connection with this Lease unless specifically described in this Lease as “GST inclusive”, does not include an amount on account of GST.
- 54.3 Despite any other provision in this Lease if a party (“**Supplier**”) makes a supply under or in connection with this Lease on which GST is imposed (not being a supply the consideration for which is specifically described in this Lease as “GST inclusive”):
- (a) the consideration payable or to be provided for that supply under this Lease but for the application of this clause (“GST exclusive consideration”) is increased by, and the recipient of the supply (“**Recipient**”) must also pay to the Supplier, an amount equal to the GST payable on the supply (“**GST Amount**”); and
 - (b) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.
- 54.4 If a payment to a party under this Lease is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party, or the representative member of a GST group of which that party is a member, is entitled for that loss, cost or expense.
- 54.5 The Recipient need not make a payment for a taxable supply made under or in connection with this Lease until the Supplier has given the Recipient a tax invoice for the supply to which the payment relates.
- 54.6 If an adjustment event occurs in relation to a taxable supply made under or in connection with this Lease then the consideration payable in respect of the supply shall also be adjusted as follows:
- (a) if the adjustment event gives rise to an increase in the GST payable by the Supplier in relation to the supply a payment equal to that increase will be made by the Recipient to the Supplier; and
 - (b) if the adjustment event gives rise to a decrease in the GST payable by the Supplier in relation to the supply payment equal to that decrease will be made by the Supplier to the Recipient.

Any payment that is required under this clause 54.6 will be made within FIVE (5) days of the issuing of an adjustment note or an amended tax invoice, as the case may be, by the Supplier. If the adjustment event gives rise to an adjustment, the Supplier must issue an adjustment note to the Recipient as soon as it becomes aware of the adjustment event.

55. SPECIAL CLAUSES

The special clauses set out in Schedule 2 and Schedule 3 (“**the Special Clauses**”) shall form part of this Lease and if there is any inconsistency between the provisions of this Lease generally and the Special Clauses, the Special Clauses shall prevail to the extent of the inconsistency.

SCHEDULE ONE

1. **PREMISES**

Lot 506 on Deposited Plan 401069 being the whole of the land comprised in Certificate of Title Volume LR 3165 Folio 305

2. **LAND**

Lot 506 on Deposited Plan 401069 being the whole of the land comprised in Certificate of Title Volume LR 3165 Folio 305

3. **COMMENCEMENT DATE**

1 March 2014

4. **TERM**

TWENTY ONE (21) years.

5. **FURTHER TERM**

Not Applicable.

6. **RENT**

Until varied, the Rent is TWENTY FIVE THOUSAND SEVEN HUNDRED AND NINETY DOLLARS (\$25,790.00) plus GST and Variable Outgoings per annum, payable in advance from and including 1 January 2015 and thereafter on each anniversary of that date.

7. **CPI RENT REVIEW DATES**

1 March 2016	1 March 2018	1 March 2020	1 March 2022
1 March 2024	1 March 2026	1 March 2028	1 March 2030
1 March 2032	1 March 2034		

8. **INTEREST**

ELEVEN PERCENT (11%) per annum

9. **LESSOR'S FIXTURES**

Fencing and any other fixture or fitting in the Premises of which at law or by designation by the Lessor under this Lease, the Lessor is the owner, and any replacement of any item mentioned in this Item.

10. **AMOUNT OF PUBLIC RISK INSURANCE**

TWENTY MILLION DOLLARS (\$20,000,000.00)

11. **MANAGING AGENT**

Not applicable

12. **AUTHORISED USE**

Caravan park and camping ground, boat launching and mooring and other ancillary uses associated with the operation of a holiday park and consistent with the designated purpose for which the Land is reserved under section 41 of the *Land Administration Act 1997*.

SCHEDULE TWO

Special Clauses

1. Interpretation

- (a) These are the Special Clauses referred to in clause 55 of the Lease.
- (b) All words and expressions not defined in these Special Clauses but which are defined in clause 1 of the main body of the Lease, where used in these Special Conditions, shall have the same meanings respectively assigned to them for the purposes of these Special Conditions as apply in the main body of the Lease.

2. Development of Premises

2.1 Background information

- (a) At the Commencement Date the Premises is lawned, landscaped and serviced land used for camping and access to the water in conjunction with the tourist facility in adjoining Lot 2663 on Deposited Plan 187973.
- (b) The Lessee wishes to continue to use the Premises as an extension of a licensed caravan park and camping ground, and to provide for access to the water.
- (c) The Lessee has not been granted formal development approval and a building licence to carry out any development.

2.2 Acknowledgements

The Lessor acknowledges and accepts the Services previously installed by the Lessee on the Premises prior to the Commencement Date.

2.4 Lessee's Development Covenants

The Lessee must:

- (a) not construct or erect any permanent structures or fixtures (including the Developments) on the Premises which have not been previously approved in writing by the Lessor without:
 - (i) the prior written consent of the Lessor which consent may be granted or refused or granted subject to conditions at the absolute discretion of the Lessor EXCEPT THAT the Lessor shall not arbitrarily or unreasonably withhold its approval;
 - (ii) if applicable, the prior approval of any Relevant Authority; and
 - (iii) the prior written approval of the Lessor to a foreshore/rehabilitation management plan;
- (b) any development on the Premises must be for the following purposes only:
 - (i) caravan and camping facilities;

- (ii) services;
- (iii) a jetty or jetties;
- (iv) boat ramps;
- (v) traffic areas; and
- (vi) general landscaping,

(hereinafter referred to as “**Development**”);

- (c) carry out and execute the construction, erection and/or installation of the Developments:
 - (i) at the Lessee’s cost;
 - (ii) in a safe and proper workmanlike manner and to the satisfaction of the Lessor, acting reasonably;
 - (iii) using only good quality materials;
 - (iv) in full compliance with:
 - A. the approvals of all Relevant Authorities and the Plans and Specifications; and
 - B. any direction, requirement order or requisition of any Relevant Authority in relation to the Developments.
 - (v) by a qualified and competent contractor engaged by the Lessee (who has a public liability policy of not less than TWENTY MILLION DOLLARS (\$20,000,000.00) and appropriate contract construction risk, workers compensation and other usual insurances, which insurance must note the rights and interest of the Lessor and evidence of which must be provided to the Lessor);
- (d) ensure that the Lessee and all its employees, agents, contractors and workmen employed in executing the construction, erection and/or installation of the Developments:
 - (i) duly and punctually comply with the reasonable directions of the Lessor in relation to their conduct in and access to the Premises and when going to and from the Land and Premises; and
 - (ii) do not do or permit any act or thing to be done which may be a nuisance or cause damage, disturbance or offence to the Lessor or other Occupiers;
- (e) if required by the Lessor, erect and maintain a fence around the Premises during the erection and completion of the Developments and ensure that such fence is sufficiently sound, high and secure to prevent entry upon the Premises by unauthorised persons and members of the public;
- (f) clean up the Premises progressively during the construction and installation of the Developments and promptly remove from the Premises all rubbish and waste arising from such works; and

- (g) pay on demand to the Lessor:
 - (i) all the reasonable costs of the Lessor in connection with the Developments including the Lessor's administrative and other reasonable costs of giving consent and the fees of any architect or other consultant used by the Lessor in connection with the proposed Developments EXCEPT THAT such costs do not include any costs or expenses incurred by the Lessor or entitled to be recovered by the Lessor in its capacity as the local government charged with the responsibility of approving such Improvements; and
 - (ii) all costs and expenses incurred or arising as a consequence of any disruption caused by the Lessee or the Lessee's contractors on the Premises.

- (g) at all times comply with the requirements set out in an approved foreshore/rehabilitation management plan.

2.5 Low Impact

The Lessee acknowledges and agrees that all structures (including the Developments) which are erected, constructed, installed, brought or made by the Lessee on the Land must be low impact, low key and consistent with the maintenance of water quality and bank stabilisation of the Land, and must not restrict or impede the use, accessibility and enjoyment by patrons and the general public of the Land, or adversely affect the amenity of the Land.

2.6 Non-Approved Works

If the Lessee carries out any works which have not been previously approved in writing by the Lessor or which are not undertaken in accordance with the provisions of this Lease, the Lessor may require the Lessee (but without limiting any other right or remedy available to the Lessor) at the Lessee's cost, to dismantle and remove any such works and to carry out the same in accordance with the Lessor's approval and in compliance with the provisions of this Lease.

2.7 Access to the Premises

- (a) The Lessee is entitled to take possession of the Premises and to enter upon the Premises from and including the Commencement Date PROVIDED:
 - (i) the Lease has been executed by the Lessee and the Lessor; and
 - (ii) any conditions precedent have been satisfied.

- (b) For the avoidance of doubt, the Lessee is obliged to pay full Rent and the Lessee's Proportion of Variable Outgoings and all other money payable under the Lease from the Commencement Date regardless of whether the Lessee has commenced or completed the Developments or whether the Lessee can use the Premises in accordance with the Authorised Use.

- (c) Notwithstanding clause 2.7(a), should the Lessee commence construction, erection and/or installation of the Developments prior to the satisfaction of any conditions precedent, whether with or without the Lessor's prior consent, the Lessee does so at its own risk and shall have no claim against the Lessor in the event that any conditions precedent are not satisfied.

2.8 Lessee Responsible for Damage

The Lessee shall, at the option of the Lessor, either repair and make good any damage which may be caused to the Land or Premises or any part thereof as a result of the construction, erection and/or installation of the Developments, to the satisfaction of the Lessor or alternatively, shall reimburse on demand the Lessor for all the costs incurred by the Lessor in having such damage made good by the Lessor's own contractors.

2.9 Lessee's Insurance

- (a) Prior to the commencement of any development on the Premises, the Lessee must have:
 - (i) procured the insurance policies referred to in item 10 of Schedule 1; and
 - (ii) otherwise complied with the terms of clause 21 of the Lease in respect of those insurance policies.
- (b) For the avoidance of doubt and notwithstanding or limiting clause 21 or item 10 of Schedule 1 of the Lease, the Lessee must, prior to the commencement of any development on the Premises:
 - (i) insure against and ensure that all of its contractors engaged in carrying out the Lessee's Works, throughout the Lessee's Works Period insure against any liability, loss, claim or proceeding whatsoever arising by virtue of any Laws relating to workers' compensation or employer's liability, by any person employed in or about the execution of the Lessee's Works and shall also insure for the Lessee's and its contractors' common law liability to all such persons for such amount as shall be nominated by the Lessor; and
 - (ii) insure the Developments to their full reinstatement and replacement value against loss or damage by fire, storm, tempest, lightning, earthquake, water damage (including flood, sprinkler leakage and rain water) explosion and concussion from explosion, impact by animals, vehicles, aircraft, spacecraft or other aerial devices, articles dropped from aircraft, spacecraft or other aerial devices, riots strikes, civil commotion, malicious damage, fusion, accident, act of God and any other insurable risk nominated by the Lessor and shall include cover for the costs associated with the removal of debris, consultants' fees and such other losses and liabilities as the Lessor shall consider appropriate; and
 - (iii) apply all insurance moneys received in reinstating, rebuilding and repairing any damage incurred or suffered to the Developments;

- (c) For the avoidance of doubt:
 - (i) the insurance policies referred to in this clause 2.9 are in addition to the insurance policies the Lessee is required to hold and maintain pursuant to clause 21 and Item 10 of Schedule 1 of the Lease; and
 - (ii) the Lessee shall otherwise comply with the obligations in clause 21 of the Lease with respect to the insurance policies referred to in this clause 2.9, including but not limited to, supplying to the Lessor current details of all insurance effected in accordance with this clause 2.9.

2.10 Assumption of Risk by Lessee

The Parties expressly acknowledge and agree that:

- (a) the construction, erection and/or installation of all of the Developments (whether undertaken by the Lessee or the Lessor or any contractor on behalf of or at the direction of either the Lessee or the Lessor) shall be at the risk of the Lessee in all respects;
- (b) the Lessee bears the risk of:
 - (i) the Developments;
 - (ii) all Plant and Equipment; and
 - (iii) all unfixed goods and materials used or to be used in carrying out the construction, erection and/or installation of the Developments, including anything provided by the Lessor to the Lessee or brought onto the Premises by any subcontractor; and
- (c) the Lessee releases and discharges the Lessor from all claims for loss of or damage to the Land or Premises, and any plant, equipment, fixtures, fittings, merchandise, good or property of the Lessee contained in or about the Land or Premises for the purpose of the Developments and from any loss of profits resulting from such loss or damage.

2.12 Property in Works

Despite any rule of law or equity to the contrary, title to and ownership of the Developments shall vest in the Lessee unless and until a direction is made by the Lessor pursuant to clause 32 of the Lease.

2.13 Default

- (a) For the avoidance of doubt, a failure by the Lessee to perform or comply with any of its obligations under this clause 2 is an Event of Default and a breach of an essential term of the Lease ("**Development Default**").

- (b) Without prejudice to any other rights or remedies available to the Lessor, If the Lessor terminates this Lease pursuant to clause 29 on the grounds of a Development Default occurring:
- (i) the Lessee shall, unless otherwise directed by the Lessor pursuant to the Lessor's rights under clause 32 of the lease, within FOURTEEN (14) days from the date upon which the Lessor terminates the Lease remove from the Premises the Developments and make good the Premises to the satisfaction of the Lessor;
 - (ii) the termination of the Lease shall be without prejudice to the obligations of the Lessee to pay the Lessor any moneys which shall be due and owing as at the date on which the Lessor terminates the Lease; and
 - (iii) the Lessee shall pay to the Lessor on demand all costs and expenses incurred by the Lessor as a consequence of the Lessee's Development Default and in the exercise of the rights of the Lessor under this clause 2.13.
- (c) Should the Lessee not comply with its obligation under clause 2.13(b)(i) above the Lessor shall be at liberty to carry out all of the said obligations at the cost of the Lessee, which cost shall be recoverable on demand.

2.14 Indemnity

Without limiting the generality of clause 22 of the Lease, the Lessee indemnifies the Lessor and the Lessor's employees against all claims, demands, loss, damage, costs and expenses of every description which the Lessor may suffer or incur in connection with or arising directly or indirectly from the Lessee's entry upon and occupation of the Premises for the purpose of the Developments or the construction, erection and/or installation of the Developments (whether undertaken by the Lessee or the Lessor or any contractor on behalf of or at the direction of either the Lessee or the Lessor).

2.15 Definitions

For the purpose of this clause 2:

- (a) **"Developments Works Period"** means the period from which the constructions, erection and/or installation of the Developments commence until to the date they have been completed;
- (b) **"Laws"** means statutes, rules, regulations, proclamations, ordinances or by-laws present or future and includes applicable Australian Standards and Codes of Practice;
- (c) **"Plans and Specifications"** means all plans, specifications and working drawings in relation to the Developments as prepared by or on behalf of the Lessee and in the form approved by the Lessor and all Relevant Authorities;

- (d) **“Plant and Equipment”** means those things used, or work undertaken by the Lessee or its contractors to construct the Developments but which will not form part of the Developments;
- (e) **“Relevant Authority”** means any government, statutory, public or other authority or body having jurisdiction over the Premises or the Developments or any matter or thing relating to the Premises or the Developments;
- (f) **“Requirements”** means any requirements, notices, orders or directions of any Relevant Authority.

3. **Environmental Matters**

3.1 Lessee’s Environmental Covenants

The Lessee must:

- (a) comply with all Environmental Laws including, without limitation, obtaining all necessary permits, authorisations and approvals required for the Authorised Use;
- (b) take all practicable precautions to ensure that no Contamination of the Premises or the Environment in the vicinity of the Premises occurs;
- (c) not discharge into the environment any trade effluent, Hazardous Material or Waste, other than that which is authorised by the relevant Government Authority;
- (d) immediately notify the Lessor if:
 - (i) a Contamination Event occurs on the Premises; or
 - (ii) an Environmental Notice is served on the Lessee;
- (e) if a Contamination Event occurs and irrespective of whether an Environmental Notice has been served on the Lessee, promptly take all usual and reasonable actions at the Lessee’s own cost and in accordance with best industry practice for the Remediation of the Premises and any land in the vicinity of the Premises to a condition, as far as practicable, as if the Contamination Event had not occurred;
- (f) at the Lessee’s own cost, comply with every Environmental Notice issued in respect of, or arising from, the Lessee’s occupation or use of the Premises, whether the notice is served on the Lessor or the Lessee;
- (g) allow the Lessor and its employees and contractors:
 - (i) after receiving reasonable notice from the Lessor, access to the Premises to conduct environmental audits or inspections from time to time; and
 - (ii) immediate access to the Premises to conduct an inspection following a Contamination Event; and

- (h) pay the reasonable costs of any reputable environmental consultant appointed by the Lessor to undertake an inspection from time to time of the Premises to verify the Lessee's compliance with this clause 3.

3.2 Remediate Contamination

- (a) Without limiting the Lessee's obligation under clause 3.1(e), the Lessee must ensure that at the expiration of the Term it has Remediated any Contamination of the Premises or any land in the vicinity of the Premises caused by the Lessee, to the absolute satisfaction of the Lessor.
- (b) Subject to clause 3.2(e), not later than SIX (6) months before the expiration of the Term, the Lessee must arrange for a reputable environment consultant approved by the Lessor (whose approval must not be unreasonably withheld) to:
 - (i) carry out an investigation of Contamination at the Premises;
 - (ii) prepare a report with respect to any (if any) Contamination at the Premises; and
 - (iii) prepare a Remediation Notice (if applicable).
- (c) Subject to clause 3.2(d), the Lessee must promptly carry out all the works specified in the Remediation Notice to the satisfaction of the Lessor, and at the Lessee's sole cost.
- (d) The Lessee is under no obligation to carry out remedial works in respect of Contamination of the Premises shown to exist at the Commencement Date, except to the extent that the Lessee has disturbed the Contamination in a manner which creates a risk of harm to people or the Environment.
- (e) If this Lease is terminated by the Lessor prior to the expiration of the Term, the Lessor may:
 - (i) arrange for the investigation of Contamination referred to in clause 3.2(a) and for the preparation of a Remediation Notice (if applicable); and
 - (ii) carry out the works specified in the Remediation Notice, at the Lessee's expense, and the Lessee will indemnify the Lessor under clause 3.3(a).
- (f) For the avoidance of doubt, this clause 3.2 is for the benefit of the Lessor and can only be waived by the Lessor.

3.3 Environmental Indemnity

- (a) Without limiting clause 22 of the Lease the Lessee indemnifies the Lessor and the Lessor's employees in respect of all claims, judgments, orders, costs (including legal costs on a full indemnity basis) and expenses for which the Lessor is or may become liable in respect of or arising from the Lessee's breach of any of the Lessee's Environmental Covenants.

- (b) Without limiting clause 3.3(a) above, in the event that the Lessee fails to promptly comply with its obligations under clauses 3.1(e), 3.1(f), 3.2(a), 3.2(b) or 3.2(c) the Lessor shall be at liberty to carry out all of the said obligations at the cost of the Lessee, which cost shall be recoverable from the Lessee on demand.

3.4 Event of Default and Essential Term

For the avoidance of doubt, a failure by the Lessee to perform or comply with any of its obligations under this clause 3 is an Event of Default and a breach of an essential term of the Lease.

3.5 Definitions

In this clause 3:

- (a) **“Contamination”** means the affectation of land (including any surface water, ground water or other waters and airspace) by any matter or substance, including but not limited to a solid, liquid, gas, odour, heat, sound, vibration or radiation which:
- (i) makes or may make such land or the surrounding Environment:
 - (A) unsafe or unfit for habitation or occupation by persons or animals;
 - (B) environmentally degraded; or
 - (C) not comply with any Environmental Law; or
 - (ii) otherwise gives rise to a risk or possible risk of harm to human health or the Environment;
- (b) **“Contamination Event”** means any incident originating on the Premises involving:
- (i) any Contamination or likely Contamination of the Premises, or the Environment in the vicinity of the Premises; or
 - (ii) the unlawful disposal of Waste in a manner which harms or is likely to harm the Environment;
- (c) **“Environment”** means all components of the earth, including:
- (i) land, air and water;
 - (ii) any layer of the atmosphere;
 - (iii) any organic or inorganic matter and any living organism including humans;
 - (iv) human made or modified structures and areas;
 - (v) the aesthetic characteristics of the components of the earth, including appearance, sound, odour, taste and texture; and

- (vi) ecosystems with any combinations of the above;
- (d) **“Environmental Law”** means any law, whether statute or common law (including the laws of negligence and nuisance), concerning the Environment and includes laws concerning:
- (i) the carrying out of uses, works or development or the subdivision of land;
 - (ii) emissions of substances into the atmosphere, waters and land;
 - (iii) pollution and contamination of the atmosphere, waters and land;
 - (iv) production, use, handling, storage, transportation and disposal of:
 - (A) Waste;
 - (B) Hazardous Materials; and
 - (C) dangerous goods;
 - (v) conservation, heritage and natural resources;
 - (vi) threatened and endangered and other flora and fauna species;
 - (vii) the erection and use of structures; and
 - (viii) the health and safety of people,
- whether made or in force before or after the date of this Lease;
- (e) **“Environmental Notice”** means any direction, order demand or other requirement to take any action or refrain from taking any action in respect of the Premises or its use from any Government Authority in connection with any Environmental Law;
- (f) **“Government Authority”** means any state, federal or local government department or authority, government Minister, governmental, semi-governmental, administrative or judicial person or any other person (whether autonomous or not) charged with the administration of any applicable law;
- (g) **“Hazardous Material”** means material which, because it is toxic, corrosive, flammable, explosive or infectious or possesses some other dangerous characteristics, is potentially dangerous to the Environment when stored or handled or when any part of the Environment is exposed to it;
- (h) **“Lessee’s Environmental Covenants”** means the Lessee’s obligations under clause 3.1, together and each of them separately;
- (i) **“Remediation”** includes the investigation, clean up, removal, abatement, disposal, control, containment, encapsulation or other treatment of Contamination and includes the monitoring and risk

management of any Contamination, and “**Remediated**” and “**remediate**” has a corresponding meaning;

- (j) “**Remediation Notice**” means a statement of the works necessary to remediate any Contamination at the Premises or the surrounding Environment to an appropriate standard;
- (k) “**Waste**” means any discarded, rejected, unwanted, surplus or abandoned substance whether or not:
 - (i) it is intentionally discarded;
 - (ii) it has a value or use; or
 - (iii) it is intended for sale, recycling, reprocessing, recovery or purification; and
- (l) A reference to “**Lessee**” also includes an Authorised Person.

4. **Conditions Precedent**

4.1 This Lease is subject to and expressly conditional upon:

- (a) the Lessor complying with the procedures set out in section 3.58 of the *Local Government Act 1995* relating to disposal of property (“**Local Government Condition**”); and
- (b) approval of the Minister pursuant to the Management Order and the *Land Administration Act 1997* (“**Minister Approval Condition**”).

4.2 The Parties covenant and agree that:

Best endeavours

- (i) where relevant, the Parties will each use their best endeavours to satisfy the above conditions precedent;

Local Government Condition

- (ii) the Lessor will bear all costs associated with satisfying the Local Government Condition; and

Minister Approval Condition

- (iii) the Lessee will bear all costs associated with satisfying the Minister Approval Condition

5. **Compliance with Acts**

The Lessor and the Lessee acknowledge that if in granting its consent to:

- (a) any assignment or sublease the Lessor has to first comply with or satisfy any obligations or requirements under any law, including section 18 of the *Land Administration Act 1997* and section 3.58 of the *Local Government Act 1995* (“**Assignment/Sublease Condition Precedent**”), then the Lessor’s consent

is made expressly conditional upon and subject to satisfaction of the Assignment/Sublease Condition Precedent; and

- (b) the development, construction, erection or installation of any structures or Developments on the Land, the Lessor has to first comply with or satisfy any obligations or requirements under any law, including the *Aboriginal Heritage Act 1972 (WA)*, then the Lessor's consent is made expressly conditional upon and subject to satisfaction of the provisions of the *Aboriginal Heritage Act 1972 (WA)*; and
- (c) the Lessee will bear the risk of any Aboriginal Heritage Claim in respect of or relating to the Premises and arising from and include the Commencement Date and will not make any claim against the Lessor in relation to any of those risks.

6. **Registration of Lease**

The Lessee must register this Lease (at its cost) with the Registrar of Titles to formally identify and register its interest on the Crown Land Title in accordance with the provisions of the *Transfer of Land Act 1893 (WA)*.

SCHEDULE THREE

Foreshore Licence

1. Definitions

- (a) In this Schedule:

Authorised Person has the same meaning in this Schedule as it has in the balance of the Lease;

Foreshore Area means the strip of land as depicted and cross-hatched on the plan attached as Annexure A being part of Lot 505 on Deposited Plan 401069.

Licence means the Foreshore Licence created under this Schedule.

2. Operative Part

- (a) In consideration of the Lessee entering into the Lease and observing the Lessee's Covenants, the Lessor grants the Lessee:

- (i) a non-exclusive right to use the Foreshore Area for mooring and boat launching only; and
- (ii) a right to erect a fence and gate the side boundary of the Premises and Foreshore Area subject to gates being open to allow public access 10 metres landward from the high water mark between the hours of 5:00am and 7:00pm,

for the Term commencing on the Commencement Date and on the terms and conditions of this Licence.

- (b) The Lessee must at all reasonable times allow general public access to the Premises and Foreshore Area and accordingly may not permit any caravan sites or install any fence, gate or barricade within or around the Premises or Foreshore Area.
- (c) The Lessee must ensure that signage (approved by the Lessor and the Department of Lands) regarding public access is placed on the gate specified in clause 2(a)(ii) above
- (d) This Licence continues for so long as the Lessee remains the Lessee under the Lease.
- (e) This Licence does not confer upon the Lessee any estate or proprietary interest in any part of the Foreshore Area.
- (f) The legal possession and control of the Foreshore Area remains vested in the Lessor.

3. Incorporation of Lease Clauses

The following clauses and/or schedules contained in the Lease shall be incorporated into this Licence as if they were set out herein in full except that any reference to Premises shall mean and be a reference to the Foreshore Area.

- (a) Clause 11 Lessee to maintain Premises and Improvements
- (b) Clause 12 Maintenance of Lessor's fixtures
- (c) Clause 13 Use of the Premises
- (d) Clause 14 Miscellaneous Restrictions on Use
- (e) Clause 15 Inflammable Substances
- (f) Clause 16 Advertisements or Notices
- (g) Clause 18 Easements
- (h) Clause 20 Plant and Equipment Fixtures
- (i) Clause 21 Insurance
- (j) Clause 22 Lessee's Indemnities
- (k) Clause 24 Report to Lessee
- (l) Clause 26 Not to impede Exercise of Lessor's Rights
- (m) Clause 27 Compliance with Statutes
- (n) Clause 32 The Improvements on Termination
- (o) Clause 34 Removal of Lessee's Fixtures
- (p) Clause 39 Consents
- (q) Clause 40 Act by Agents
- (r) Clause 41 Lessee Liable for Authorised Persons
- (s) Clause 42 Notice
- (t) Clause 54 Goods and Services Tax
- (u) Schedule 2 Special Clauses

4. **Termination**

- (a) This Licence terminates when the Lease terminates unless this Licence terminates earlier under clause 4(b).
- (b) The Lessor is entitled to immediately terminate this Licence by notice to the Lessee if:
 - (i) the Lessee ceases to be the Lessee under the Lease;
 - (ii) the Lessee vacates the Premises it occupies under the Lease; or
 - (iii) the Lessee fails to observe the Lessee's Covenants or fails to comply in any other way with this Licence.

5. **No Assignment**

The Lessee must not assign, mortgage or charge the Lessee's rights under this Licence nor sub licence, part with possession or dispose of its rights in any way unless it is in conjunction with the assignment or subletting of the Premises leased by the Lease.

Rental Valuation Report

Opteon[®]

Australia's Property Advisors



Portion of Foreshore Reserve 41812 adjoining Lakeside Resort, Kununurra, WA 6743

Prepared For	Shire of Wyndham East Kimberley
Valuation Date	26 th March 2013
Date Report Issued	23 rd April 2013
Our Reference	130508

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Value made visible

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Appendices

1. Instructions
2. Lakeside Resort Lease and License Plan

1.0 Instructions

Instructions have been received to undertake a rental valuation of the property as per the details below.

Instructing Party	Jennifer Ninnette - Senior Planning Officer, Shire of Wyndham East Kimberley
Property Address	Portion of Foreshore Reserve 41812 adjoining Lakeside Resort, Kununurra, WA 6743
Date of Instructions	15 th March 2013
Client / Authorised Party	Jennifer Ninnette - Senior Planning Officer, Shire of Wyndham East Kimberley
Valuation Purpose	To establish fair market rent for new lease.
Specific Instructions	Assessment of the Market Rental Value of the proposed ground lease area subject to the terms of the proposed (draft) lease.
Pecuniary Interest	We confirm that the valuer does not have any pecuniary interest that would conflict with the proper valuation of the property.
Documentation Provided	Information we have been provided with and relied upon in undertaking our valuation includes: <ul style="list-style-type: none"> • Proposed (draft) lease; • Lakeside Resort Lease and License Plan; • Lakeside Resort - Survey for Foreshore Lease; • Council Policy No. CP\HTH-3761, Licensing of Overflow site in Caravan Parks and Camping Grounds; • Signed quotation/written instructions.
Scope of Work	The scope of work undertaken by the valuer in completing the valuation has included: <ul style="list-style-type: none"> • Collation of information from relevant parties regarding the subject property; • Undertaking our own research regarding the subject property; • An inspection of the property and measurement of buildings where required; • Undertaking market research in terms of Market Rents of similar properties; • Preparation of valuation calculations; and • Preparation of this report.
Compliance	Our valuation has been prepared in accordance with the Australian Property Institute Practice Standards and Guidance Notes.
Full Disclosure Disclaimer	<i>Whilst we have attempted to confirm the veracity of information supplied, the scope of work did not extend to verification of all information supplied or due diligence. Our valuation and report has been prepared on the assumption the instructions and information supplied has been provided in good faith and contains a full disclosure of all information that is relevant. The valuer and valuation firm does not accept any responsibility or liability whatsoever in the event the valuer has been provided with insufficient, false or misleading information.</i>
Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>

2.0 Definitions

Market Rental Value	This valuation has been prepared on the basis of Market Rental Value as defined by the International Valuation Standards Committee (IVSC), and endorsed by the Australian Property Institute: <i>“The estimated amount for which premises should rent, as at the relevant date, between a willing lessor and a willing lessee in an arm’s length transaction, wherein the parties had each acted knowledgeably, prudently and without compulsion, and having regard to the usual terms and conditions for leases of similar premises.”</i>
Rental Value Under Lease	Our valuation has been assessed pursuant to the definitions and terms of the lease.
Face Rent	<i>“The rent shown on a lease document which may include incentives.”</i>
Effective Rent	<i>“The actual liability for rent after adjustments for any incentives and costs to the face rent are taken into account.”</i>

3.0 Basis of Valuation

Basis of Valuation	Our valuation has been prepared subject to the proposed lease terms and conditions.
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4.0 Date of Valuation

Valuation Date	23 rd April 2013
Date of Inspection	26 th March 2013
Market Change	Due to possible changes in market forces and circumstances in relation to the subject property the report can only be regarded as representing our opinion of the value of the property as at the Date of Valuation.
Currency of Valuation	Three months from the date of issue of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.

Market Change Disclaimer	<i>This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of three months from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation. We recommend the valuation be reviewed at regular intervals.</i>
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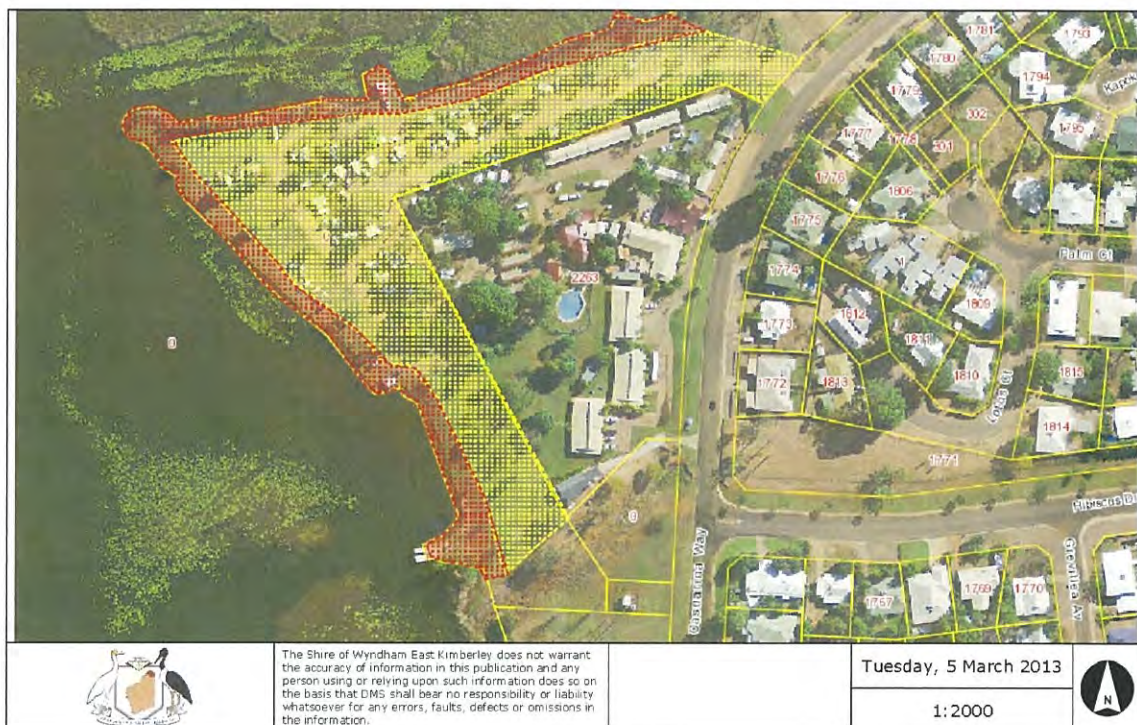
5.0 Location

The subject property is located in the far northern town of Kununurra, approximately 3,250km from Perth and 825km from Darwin. Kununurra has a population of approximately 7,100 people. Main industries supporting the town include irrigated agriculture, tourism, mining and pastoral. The town has a wide range of amenities including a shopping precinct, schools, hospital and airport.

More specifically the subject land comprises part of the Lakeside Resort enterprise. This is located within the Lakeside residential precinct being accessed from the main road within the precinct Casuarina Way. More importantly the subject land extends from Casuarina Way down and along Lily Creek Lagoon. The leasehold area subject of this report extends from the freehold area down to the license area with the license area being approximately 10m wide and extending down to the foreshore.

Location Map

The lease area is hatched yellow and the license area is hatched red.



6.0 Land Description

6.1 Dimensions

Shape	Irregular - see aerial photograph
Primary Street	Casuarina Way
Primary Frontage	Foreshore estimated approximately 300m to the west (prime) and approximately 260m to the north (partly secondary).

6.2 Site Area

Site Area	<ul style="list-style-type: none">Lease area approximately 1.6 hectares;License area approximately 6,500 sqm.
Source of Site Area	The above mentioned site areas area advised by the Shire of Wyndham East Kimberley and should be confirmed by survey should this be considered necessary.

Site Area Disclaimer

In the event the actual surveyed land area of the property is different to the area adopted in this valuation the survey should be referred to the valuer for comment on any valuation implications.

7.0 Planning

7.1 Local Planning

Local Government Authority	Shire of Wyndham East Kimberley
Current Town Planning Scheme	Town Planning Scheme No. 7
Current Zoning	"Special Foreshore"
Zoning Effect	While the Town Planning Scheme maps indicate that the land is zoned "Special Foreshore" there is no mention of permitted uses or other of "Special Foreshore" within the scheme text. It is generally regarded that the "Special Foreshore" areas area designated for conservation and in some instances public open space. Development and use of the subject land is guided by the advice of the Shire and the draft lease - refer to lease details (Section 10.0).

Planning (Cont'd)

Accommodation License Shire of Wyndham East Kimberley has advised that the Lakeside Resort Caravan Park is Licensed for 8 long stay sites, 52 short stay sites and 10 overflow sites. They further advise that an estimated 14 of these sites are located on the freehold land thus the remaining 56 sites are on the Foreshore Reserve (Lease and licence area). Only unpowered sites are permitted on the Foreshore License area, additional sites may be licensed following the development of additional ablutions.

Planning Disclaimer

Town planning and zoning information was informally obtained from the relevant local and State Government authorities. This information does not constitute a formal zoning certificate. Should the addressee require formal confirmation of planning issues then we recommend written application be made to the relevant authorities to obtain appropriate current zoning certificates.

8.0 Improvements

Improvements to the site are limited to general site infrastructure including reticulated power sites and reticulated water outlets together with garden/lawn reticulation, driveways and general associated landscaping. All improvements on the subject land are owned by the Lessee.

9.0 Photography



10.0 Occupancy & Lease Details

Lease Status	We confirm having been provided with a draft copy of the Lease.
Lease Execution Assumption	This valuation is based on the assumption that the proposed lease Agreement outlined below is signed and executed. If the proposed lease terms and conditions are altered or differ to that detailed in this report this may have a material impact on the valuation and accordingly the lease terms and conditions must be confirmed prior to relying on this valuation. The executed lease agreements should be referred to the valuer for sighting to confirm that the particulars of the document concur with those set out in this report.

10.1 Lease Summary

Lessee	Ingle Pty Ltd
Demised Premises	Part of the land coloured yellow on the plan attached as Annexure A (Annexed to report - Lakeside Resort Lease and License Plan).
Commencement Date	1 st April 2013
Initial Term	10 years
Options	Not applicable
Expiry Date	31 st March 2023
Commencement Rent	To be determined
Rental Reviews	Reviewed by CPI every second anniversary of the commencement date.
Net or Gross	Net
Outgoings	Lessee is responsible for all statutory and variable outgoings relating to the land.
Authorised Use	Camping, boat launching and mooring and other ancillary uses associated with the operation of a holiday park and consistent with the designated proposed for which the Land is reserved under Section 41 of the Land Administration Act 1997
Special Conditions	<p>Development may be permitted on the land at Council's discretion. Development must be for the following purposes only:</p> <ol style="list-style-type: none"> 1. Caravan and camping facilities; 2. Services; 3. A jetty or jetties; 4. Boat ramps; 5. Traffic areas; and 6. General landscaping. <p>Schedule 3 of the lease details the Foreshore License. Essentially the Foreshore License permits a non exclusive right to use the Foreshore for the authorised use under similar terms and conditions as the lease however we note that development on the Foreshore area is not permitted and the lessee must at all reasonable times allow general public access to the premises the Foreshore area.</p>

11.0 General Comments

The subject property has a prime location being on the foreshore of Lake Kununurra providing for an aesthetically pleasing boating and ancillary use area. The land has extensive water views along its western frontage as well as some water frontage and vegetation along its northern frontage.

The current number of ablutions permits approximately 56 sites within the Lease and Licence area with an additional 14 on the adjoining freehold. Further sites may be permitted if there were additional ablutions to service them. Development of additional ablutions may be permitted however must be done so as per the development guidelines within the lease.

Although the lease stipulates that public access must be maintained we find that in practicality the primary user of the Land is the Lessee and that very few public actually use the land.

12.0 Leasing Analysis

12.1 Market

Leaseability	Suited only to the proposed lessee due to its natural extension of the freehold land adjoining.
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13.0 Leasing Market Commentary

There is only a limited market for this type of property. Caravan Park ground leases are typically made on a case by case basis and there are very few recent new lettings of caravan parks (particularly ground rents).

Therefore, we have collected as much available evidence as possible. Typically these leases have been well established. The rents for underlying land appear to be adopted by either a rate per sqm, rate per site or % of turnover basis.

Given that we are not privy to the accounts of the subject business, we have had little regard to this basis and focused on adopting a rate per sqm rental rate.

14.0 Market Evidence

Information Availability

In preparing this valuation the valuer has researched market evidence from various sources. While we believe the information to be accurate, not all details have been formally verified. Due to privacy laws, confidentiality agreements and other circumstances beyond our control, the valuer may not have had access to:

- Personal details of parties involved in transactions and is therefore unable to confirm whether such dealings are arm's length transactions;
- Information on recent transactions which are yet to become public knowledge; and
- Copies of leases/contracts to confirm rents/prices and to ascertain whether or not rents/prices are inclusive or exclusive of GST.

Additional Information

In the event additional information becomes available regarding these circumstances this may affect the opinion expressed by the valuer. Nevertheless the valuation is based on information and market evidence reasonably available to the valuer as at the date of the valuation in accordance with usual valuation practices.

14.1 Rental Evidence

In forming our opinion of the Market Rental Value of the subject property, we have had regard to various lease transactions a selection of which are detailed below:

Address:	Term & Options:	Total Rent Per annum:	Date Rent Set:	Land Area:	Overall Rate:	Comments:
Denmark Rivermouth Caravan Park	21 years plus 0 years	\$42,000 net	March 2012	3.522 hectares	\$1.16 per m ² \$323 per site	Comprises a prominent location with frontage to both Denmark River and Wilson Inlet. Rent set to market at 2012. Comprises an established caravan park. Licensed for a total of approximately 130 sites excluding 20 overflow sites. Ground rent only, % of turnover is unknown.
Peaceful Bay Caravan Park, Shire of Denmark	unknown	\$14,570 net	As at August 2012	6.8679 hectares	\$0.21 per m ² \$122 per site	Comprises a caravan park some 50km from the town of Denmark. The park has a lower rent due to its remote location. The park is licensed for some 119 sites excluding 20 overflow sites. Ground rent only, % of turnover unknown.
Emu Beach Holiday Park, Albany	30 years plus 0 years	\$66,623.31	As at January 2012	4.238 hectares	\$1.57 per m ² \$376 per site	Rent appears to have been inflated by CPI since its inception in March 2009 at \$63,600 per annum net. Comprises a water front location fronting King George Sound in Albany. A well appointed site though improvements excluded from lease. The premise is licensed for 177 sites excluding overflow sites. Ground rent only, % of turnover unknown.

Market Evidence (Cont'd)

Address:	Term & Options:	Total Rent Per annum:	Date Rent Set:	Land Area:	Overall Rate:	Comments:
Middleton Beach Holiday Park, Albany	21 years plus 0 years	\$33,850 net	Early 2010	2.056 hectares	\$1.50 per m ² \$352 per site	Comprises an established caravan park along Albany's Middleton Beach and fronting the beach. The land is leased by the City of Albany to the lessee excluding improvements. The premise is licensed for 96 sites excluding overflow sites. Ground rent only, % of turnover unknown.
Ningaloo Caravan and Holiday Resort	40 years start Feb 1998	\$140,000 Ex GST	1 st February 2010	9.5375 hectares	\$1.47 m ² , \$383 site, 7.31% of turnover and 21% of adjusted NOP after rent	Comprises a large remote caravan park with 26 cabins, 27 long stay sites, 262 short stay sites, 40 camp sites and 10 unpowered sites. Total 365 sites. Rent set by mutual agreement every 4 years.
Esperance Sea Front Caravan Park	7 years plus 2 x 7 years	\$146,306.35 net INCL. (\$133,006 Excl.)	1 st July 2011 (CPI)	4.1859 hectares	\$3.18 per m ² \$756 per site	Comprises a significant portion of the Esperance Caravan Park. The land is improved in the main with a residence, 4 ablution blocks, camp kitchen and shop/office together with typical ancillary improvements. We understand that the Park has some 176 licensed sites. Approximately 11.2% of accommodation sales and 32% of adjusted NOP after rent.
Kona Lakeside Tourist Bay, Lake View Drive, Kununurra	Unknown	\$180,000	May 2006	2.5338ha	\$7.10m ² , \$1,241 per site, and 19.89% of T/O	Prior to exercising an option to purchase the current owners previously leased the property privately from the previous owner/vendor. The initial rental which was set in May 2006 was for the amount of \$180,000 per annum plus outgoings and GST. Substantially improved the property is licensed for 145 sites including powered, unpowered and 10 overflow sites; improvements include, 15 park homes/cabins, 2 relatively modern ablution blocks, shop/reception, manager's dwelling and swimming pool. As at the date of when the rental was agreed the gross income for the property was in the order of \$905,000. The rental reflects approximately 20% of turnover.

Market Evidence (Cont'd)

Address:	Term & Options:	Total Rent Per annum:	Date Rent Set:	Land Area:	Overall Rate:	Comments:
Rose Gardens Beachside Holiday Park, 41-51 Mermaid Avenue, Emu Point, (near Albany) W.A.	50 years + 30 years	\$68,250 + GST	Aug 2012	4.8449 ha	\$1.41m ² , \$292 per site, and 7.6% of T/O	Council owned Park with long lease, rent considered to be ground rent. Rent reviewed annually to CPI but is reviewed every 5 years to 25% of GRV. Last reviewed by this method in 2012. New rent reflects approximately 7.6% of turnover, 11.6% of adjusted NOP after rent, 1.41sqm of land area and \$292 per site including 209 caravan and camping sites, manager's quarters, staff quarters, 7 cabins, 15 chalets and a villa.
Coalmine Beach Holiday Park, Walpole, W.A.	20 years +9 years +12 years start 1993	\$68,969 + GST	As at 2012	Unknown	10% of T/O, and \$675 per site.	Rent set annually at end of financial year by reviewing to 10% of accommodation takings. Park comprises 88 powered sites and 14 unpowered sites. Analysis shows rent reflects approximately 20% of adjusted NOP after rent.

In addition to the above we have had discussions with eastern states valuers who have advised that smaller and less improved caravan parks are achieving rents equal to 14% to 15% of income.

15.0 Valuation Methodology

15.1 Adopted Valuation Method

The most appropriate method of valuation for a property of this nature is by market comparison whereby the subject property is compared with rentals of comparable properties and adjustments made for points of difference. We have primarily had regard to those ground rents on a rate per sqm basis.

15.2 Valuation Calculations

Our valuation calculations are summarised as follows:

Direct Comparison Valuation Method (rate psm land area)		Market Value
Lease Area	16,000 sqm @ \$1.40 psm	\$22,400
License Area	6,500 sqm @ \$0.50 psm	\$3,250
Adopt, Total Market Value:		\$25,750
Adopted value equates to rate per sqm of lease area		\$1.61 psm
Adopted value equates to rate per sqm of lease and license area		\$1.14 psm

15.3 Conclusion

Having regard to the above calculations, and after taking into account both the positive and negative attributes of the property, from an objective and unbiased, yet balanced point of view, we are of the opinion that the Market Rental Value of the property is \$25,750 per annum

Variance in Market Value Due to the unique characteristics of the property and limited amount of available, confirmed, comparable market evidence we advise that there is likely to be a greater degree of variation in the price prospective purchasers may offer to pay for the property. This volatility is likewise demonstrated within our valuation calculations which show a comparatively higher degree of variation of possible values.

16.0 Goods & Services Tax

Treatment of GST All amounts and values expressed in this report are exclusive of GST unless otherwise specified.

17.0 Rental Valuation

17.1 Market Rental Value - Vacant Possession

We are of the opinion that the Market Net Rental Value of the property with vacant possession, as at 23rd April, 2013 subject to the comments in this report, is:

\$25,750 per annum

Notwithstanding our Market Rental valuation, there is a degree of volatility in rents in the property market due to the particular circumstances of tenants and owners. Having regard to these conditions we consider an appropriate range of rental value for the premises to be between \$24,000 and \$27,500 pa.

Inspecting Valuer



BENJAMIN FARQUHAR B.COM
AAPI Certified Practising Valuer
Licensed Valuer 44320
In the State of Western Australia

Important

This valuation is subject to the definitions, qualifications and disclaimers and other comments contained within this report.

18.0 Assumptions, Qualifications and Disclaimers

Third Party Disclaimer	<i>This report has been prepared for the private and confidential use of our client, Shire of Wyndham East Kimberley for the specified purpose. It should not be reproduced in whole or part without the express written authority of Opteon (North West WA) Pty Ltd or relied upon by any other party for any purpose and the valuer shall not have any liability to any party who does so. Our warning is registered here, that any party, other than those specifically named in this paragraph should obtain their own valuation before acting in any way in respect of the subject property.</i>
Full Disclosure Disclaimer	<i>Whilst we have attempted to confirm the veracity of information supplied, the scope of work did not extend to verification of all information supplied or due diligence. Our valuation and report has been prepared on the assumption the instructions and information supplied has been provided in good faith and contains a full disclosure of all information that is relevant. The valuer and valuation firm does not accept any responsibility or liability whatsoever in the event the valuer has been provided with insufficient, false or misleading information.</i>
Digital Copies of Reports	<i>Where a report has been provided in digital copy and has not been received directly via our firm, the report contents, especially the valuations and critical assumptions, should be verified by contacting the issuing office to ensure the contents are bona fide. In particular if the reader of this report has suspicions that the report appears to be tampered or altered then we recommend the reader contact the issuing office.</i>

Assumptions, Qualifications and Disclaimers (Cont'd)

Reliance on Whole Report	<i>This valuation should be read in its entirety, inclusive of any summary and annexures. The valuer and valuation firm does not accept any responsibility where part of this report has been relied upon without reference to the full context of the valuation report.</i>
Publication of Report	<i>The publication of the valuation or report in whole or any part, or any reference thereto, or the names and professional affiliations of the valuers is prohibited without the prior written approval of the valuer as to the form and context in which it is to appear.</i>
Market Change Disclaimer	<i>This valuation is current as at the Date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of three (3) months from the date of the valuation, or such earlier date if you become aware of any factors that have any effect on the valuation. We recommend the valuation be reviewed at regular intervals.</i>
Land and Building Area Disclaimer	<i>In the event actual surveyed areas of the property are different to the areas adopted in this valuation the survey should be referred to the valuer for comment on any valuation implications. We reserve the right to amend our valuation in the event that a formal survey of areas differs from those detailed in this report.</i>
Planning Disclaimer	<i>Town planning and zoning information was informally obtained from the relevant local and State Government authorities. This information does not constitute a formal zoning certificate. Should the addressee require formal confirmation of planning issues then we recommend written application be made to the relevant authorities to obtain appropriate current zoning certificates.</i>
Heritage Disclaimer	<i>Heritage information was informally obtained from the relevant local, State and Federal authorities. Should the addressee require formal confirmation of the heritage status then we recommend written application be made to the relevant authorities.</i>
Building Services Assumption	<i>No documentation or certification has been sighted to verify the condition of Generally building services, and we have assumed that building services are operational and satisfactorily maintained.</i>
Condition/Structural Disclaimer	<i>This report is not a condition or structural survey and no advice is given in any way relating to condition or structural matters in the capacity of an expert. A condition or structural report on the building and/or its plant and equipment has not been sighted, and nor have we inspected unexposed or inaccessible portions of the premises. Therefore we cannot comment on the structural integrity, any defects, rot or infestation of the improvements, any use of asbestos or other materials now considered hazardous or areas of non-compliance with the Building Code of Australia, other than matters which are obvious and which are noted within this report.</i>
Environmental Disclaimer	<i>This report is not an environmental audit and no advice is given in any way relating to environmental matters. Any comments given as to environmental factors in relation to the property are not given in the capacity as an expert. This assessment of value is on basis that the property is free of contamination. In the event the property is found to contain contamination the matter should be referred to this office for comment. Given contamination issues can have a significant impact on the Market Value of the property, we reserve the right to review and if necessary vary our valuation if any contamination or other environmental hazard is found to exist.</i>

Assumptions, Qualifications and Disclaimers (Cont'd)

<p>Leases and Lease Rental</p>	<p><i>This valuation is based on the assumption that the lease agreement(s) (including any proposed leases) outlined previously are signed and executed. This valuation is also made on the basis that the tenants are paying rent in accordance with the lease agreements and no rental subsidies, rent free periods or the like have been offered by the lessor.</i></p>
<p>Information Availability (Market Evidence)</p>	<p><i>In preparing this valuation the valuer has researched market evidence from various sources. While we believe the information to be accurate, not all details have been formally verified. Due to privacy laws, confidentiality agreements and other circumstances beyond our control, the valuer may not have had access to: Personal details of parties involved in transactions and is therefore unable to confirm whether such dealings are arm's length transactions; Information on recent transactions which are yet to become public knowledge; Copies of leases/contracts to confirm rents/prices and to ascertain whether or not rents/prices are inclusive or exclusive of GST. In the event additional market evidence information becomes available regarding these circumstances this may affect the opinion expressed by the valuer. Nevertheless the valuation is based on information and market evidence reasonably available to the valuer as at the date of the valuation in accordance with usual valuation practices.</i></p>

Opteon.

Australia's Property Advisors

15 March 2013

Jennifer Ninnette
Senior Planning Officer
Shire of Wyndham/East Kimberley
By email: Jennifer.Ninnette@swek.wa.gov.au

Dear Jennifer,

RE: PORTION OF FORESHORE RESERVE 41812,
KUNUNURRA, WA
MATTER: RENTAL VALUATION

Thank you for the opportunity to provide you with a quote for independent property advice for the above property. Detailed below is our understanding of your requirements and our quote:

Our Client:	Jennifer Ninnette - Senior Planning Officer, Shire of Wyndham/East Kimberley
Purpose/Scope:	To establish market rent for new lease and should not be relied upon for any other purpose.
Reporting Format:	Rental Valuation Report Our valuation will be prepared in accordance with applicable Australian Property Institute (API) Professional Practice Standards and Guidance Notes will be subject to disclaimers and qualifications where appropriate/necessary.
Delivery of Report:	By email

Opteon (North West WA)
ABN 26088064724
Unit 5/2A MacPherson Street (Cnr. Coghlan Street)
PO Box 5454, Cable Beach, WA 6726
T 08 9192 3930
F 08 9192 3931
E kimberley.info@opteonproperty.com.au
W opteonproperty.com.au

Value made visible

Required Information:	<p>If you have any information about the property or information which is relevant to the purpose of this advice please supply this information to us, preferably by email.</p> <p>In order to complete our advice we envisage the following information may be required:</p> <ol style="list-style-type: none"> 1. copies of any current or proposed leases; 2. details of the existence of any secrecy clauses, agreements or incentives offered to tenants, if relevant; 3. building plans, if available; 4. any consolidated profit and loss statements for the business for the past 2-5 years; 5. any other relevant information.
Professional Fees:	\$1,650.00 inclusive of GST
Payment of Fees:	Payment required within 7 days of receipt of invoice.
Terms of Engagement:	<p>Valuations do not constitute advice on legal, investment, surveying, structural or environmental matters. We recommend you seek advice from experts in other fields should this be considered necessary or if you have concerns in relation to particular matters.</p> <p>Please be advised that you are instructing us to provide our independent opinion of the value of the property. The valuation will be based on information provided to us and market evidence available as at the date of valuation. If you disagree with our valuation we are happy to discuss the matter with you but our professional fees will remain payable. In the event erroneous or subsequent information is provided which may alter our opinion we reserve the right to review our valuation and additional fees may apply.</p> <p>Unless otherwise negotiated, our engagement is on a non-exclusive basis and we retain ownership of our valuation and advice. We reserve the right to provide advice to other future clients in relation to the property. We will not disclose any advice given to you and agree to retain such information in confidence.</p> <p>Values may change (including as a result of general market movements or factors specific to the particular property) and therefore we recommend you obtain regular valuation advice.</p>
Limit of Liability:	<p>To the extent permitted by law, our professional liability shall be limited to whichever is the lower of:</p> <ol style="list-style-type: none"> i. the amount of our professional indemnity insurance cover; or ii. 10% of the value of the value of the property (per our valuation);
Date of Completion:	At this stage we envisage completing the valuation in 15 working days however this may be dependant upon workloads. If we are unable to meet this timeframe or experience delays in completing the valuation we will contact you.

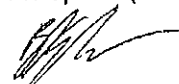
Thank you again for the opportunity to provide you with a quote and we look forward to being of service to you. Please confirm with us that you would like us to proceed.

PLEASE COMPLETE THE FOLLOWING DETAILS

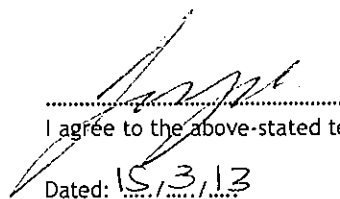
1. Your preferred contact phone number:	9168 4176
2. Fax no/email for report/invoice:	Jennifer.Ninette@swek.wa.gov.au
3. Contact name and phone number to arrange property inspection time:	Laurie McKenzie 0418 921 065

Should you have any queries regarding this quote please do not hesitate to contact the undersigned.

For Opteon (North West WA) Pty Ltd



BENJAMIN FARQUHAR B.COM
AAPI - Certified Practising Valuer
Licensed Valuer 44320
In the State of Western Australia



.....
I agree to the above-stated terms (signed)
Dated: 15/3/13



Tuesday, 5 March 2013

1:2000

The Shire of Wyndham East Kimberley does not warrant the accuracy of information in this publication and any person using or relying upon such information does so on the basis that DMS shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information.



Jennifer Ninnette

Subject: FW: No Subject
Attachments: memo - Lakeside Resort.docx

From: Laurie McKenzie [<mailto:laurie@lakeside.com.au>]
Sent: Monday, 13 April 2015 1:30 PM
To: Louise Gee
Subject: No Subject

Louise Gee<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Acting CEO

SWEK

13/4/2015

During our meeting on the 24th of March the question was posed as to our position of the proposed rent and the age of the valuation, as well as the amendment due to the realignment of the boundary.

We advised the valuation would be reviewed following discussion with the valuer and advice would follow, we have spoken to Ben Farquar this week following his return from leave last week.

Herewith;

Some serious areas of concern are raised from this review, apart from the massive down turn in trading from 2011/2012 to 2014/2015 (due to the Warnum floods) the following flaw was identified.

All caravan parks used as market evidence, are parks that enjoy a prolonged tourist season and all year trading (producing a rental figure average of \$1.48 psm,) unlike the Kimberley caravan parks where trading is limited to 100 days of the year.

This is apart from Kona Lakeside Tourist Park that was bought into comparison, where the rent would reflect the whole of the infrastructure and the established business, this bares no relevance as a comparison.

The adopted rate for this valuation is \$1.40 psm.

If the trading was a year round scenario the valuation would be fair, but given our unique trading in this region we believe the rent should have a formula of 100/365 applied this would produce a lease figure of \$9398.00 p.a. , with adjustments to the amended lease area due to boundary changes by your office, we consider this to be fair.

I am further perplexed as to why we are charged \$.50 per square metre for the right to mow, water and maintain the licensed area.

Further, a review by the Dept. of Land during the delay period of the lease caused a reduction of 6 sites from our original plan of 28 sites dramatically effecting and our business case supporting the lease.

Ater establishing the rent an alternative could be a bi-annual review based on a business survey.

Regards

Laurie McKenzie

Director

Lakeside Resort "Kununurra With a View"

ph 08 91 69 1092 mob 041 892 1065

www.lakeside.com.au

Cr D Spackman declares a financial interest in this item (indirect financial identified in report to Council) and leaves the Chambers at 7.21pm.

Cr D Learbuch declares an impartiality interest (I am employed by a company that also owns a company that has an interest in this matter) in this item.

Cr R Dessert declares an impartiality interest (licensee) in this item.

13.3.7 Submission to the Department of Racing Gaming and Liquor following public advertising of a liquor licence application

DATE:	23/06/2015
PROPONENT:	N/A
LOCATION:	Lot 555 (116) Coolibah Drive, Kununurra
AUTHOR:	Roy Adam, Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	A1145P
ASSESSMENT NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to make a submission to the WA Department of Racing, Gaming and Liquor (DRGL) and WA Liquor Licensing Authority as part of the decision-making process for a proposed liquor store.

BACKGROUND

An application for a liquor store has been made by Kununurra Liquor Pty Ltd to the Liquor Licensing Authority at the DRGL.

The Authority is responsible for regulating liquor activities in Western Australia including the assessment of alcohol sales licences.

The store premises are situated in Kununurra at Lot 555 (116) Coolibah Drive. The trading name is Liquor Barons Kununurra and a Public Interest Assessment accompanies the application (**Attachment 1**).

Planning approval for a Liquor Store use on the subject site was granted by Council 24 March 2015 subject to eight (8) conditions (Minute No. 10841) (**Attachment 2**). A section 40 certificate for planning requirements was subsequently approved by Council 28 April 2015 (Minute No. 10908).

In accordance with the *Liquor Control Act 1988* (WA) the application is currently being advertised for public comment (letter drop, public notice). Advertising is open 14 April-28 June 2015.

There are provisions in the Act enabling local governments to forward submissions of concern regarding any negative effects under sections 69 and 74 of the *Liquor Control Act 1988* (WA) on the grant of a new licence. These may be in the form of an intervention notice or objection (**Attachment 3**).

Once the period for submission of interventions or objections has closed, the DRGL consider any submissions received together with the licence application. The Director of Liquor Licensing then makes a decision regarding whether the application is issued or refused. Section 69 (13) of the Act provides those that have intervened the right to appeal a decision to the Liquor Commission. A further right of appeal is also available through the Supreme Court.

STATUTORY IMPLICATIONS

There is no statutory requirement for Council to make a submission however it is open to do so. The Act does have stipulations on content and lodgement.

Section 69 of the Act provides that an authorised party may submit a notice of intervention (Commissioner of Police, Executive Director Public Health, Local Government) or an objection within the public comment time period. An intervenor becomes a party to the proceedings and may be made a respondent to any appeal.

The Act [s 69 (7)] stipulates the grounds on which the local government may make an intervention:

- (a) *as to whether premises are suitable to be, or to continue to be, licensed or the subject of a permit; and*
- (b) *as to whether a proposed alteration to, or redefinition of, licensed premises should be approved; and*
- (c) *on the question of whether, if a particular application were granted, persons who reside, work or worship in the vicinity would be likely to suffer undue offence, annoyance, disturbance or inconvenience, and may submit a report to the licensing authority on those matters.*

A second form of submission is an objection. An objection does not have to be done by an “authorised person” however the Act does stipulate certain limitations such as declaring pecuniary (financial) interest. In addition an objection is to be on one or more of the following grounds:

- *that the grant of the application is not in the public interest;*
- *that the grant of the application would cause undue harm or ill-health to people, or any group of people due to the use of liquor;*
- *that, if the application were granted, the quiet or good order of the relevant locality would be lessened, or there would probably be undue annoyance, disturbance or inconvenience suffered by people who reside, work or worship near the site; or are in or travelling to or from an existing or proposed church, hospital or school; or*
- *that the grant of the application would otherwise be contrary to the provisions of the Act.*

In respect to the fourth point above, the primary objects of the Act are to:

- *Regulate the sale, supply and consumption of liquor;*
- *Minimise harm caused to people, or any group of people, due to the use of liquor; and*
- *Cater for the requirements for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

There are no Strategic Implications in relation to this report.

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

In regards to a notice of intervention it is considered by Shire officers that environmental health, building safety and planning regulations are already satisfied or readily achievable through the existing statutory framework. For example the aesthetic improvements and internal changes to the building are minor. Thus these points relating to an intervention are not considered to be significant issues.

However section 69 (7) relating to grounds for intervention, states:

"A local government to which subsection (4)(b) refers may intervene in proceedings before the licensing authority for the purpose of introducing evidence or making representations —

...

(c) "on the question of whether, if a particular application were granted, persons who reside, work or worship in the vicinity would be likely to suffer undue offence, annoyance, disturbance or inconvenience".

The above point (c) moves beyond the facts available to Shire officers and thus the Council may take the view that this point requires further examination and ultimately a direction to officers to lodge a notice.

Regarding section 69 the Council may note that the Commissioner of Police and the Executive Director of the Department of Health are also open to make interventions based on their relative areas of expertise. In addition these two parties may be called upon to contribute information on the background of the applicant, public disturbance, and likely community health impacts.

On the lodgement of an objection Council may deliberate on whether the proposal is in the public interest or does not satisfy any of the other (three) grounds for objection. In that instance a direction to officers to lodge an objection is available.

A further option which is available to Council is that it directs officers to write to the DRGL and include the complete minutes of the planning approval of 24 March 2015. As well as the

attached submissions from community members (7 objections and 1 supporting) this approval stated:

“Advisory Note: 1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.”

In support of this aim it is noted that the applicant has indicated willingness in the planning application and in its liquor licence application to be a “fully supportive and active” member of the Kununurra Wyndham Liquor Accord.

A letter of submission to the Director of Liquor Licensing has been drafted to this purpose (Attachment 4).

ATTACHMENTS

Attachment 1 - Liquor Licence Application and Public Interest Assessment
Attachment 2 – Minutes of Planning Approval 24 March 2015 for Liquor Store
Attachment 3 – Liquor Licence Flowchart
Attachment 4 – Draft submission to DRGL

VOTING REQUIREMENT

Simple Majority

OFFICER’S RECOMMENDATION

That Council, having considered the advertised application for a liquor store licence by Kununurra Liquor Pty Ltd at Lot 555 (116) Coolibah Drive requests the Chief Executive Officer to forward to the Department of Racing, Gaming and Liquor and its Director of Liquor Licensing a submission as outlined in Attachment 4.

COUNCIL DECISION

Minute No.11000

**Moved: Cr G Taylor
Seconded: Cr S Cooke**

That Council, having considered the advertised application for a liquor store licence by Kununurra Liquor Pty Ltd at Lot 555 (116) Coolibah Drive requests the Chief Executive Officer to forward to the Department of Racing, Gaming and Liquor and its Director of Liquor Licensing a submission as outlined in Attachment 4.

Carried Unanimously 8/0

Cr K Wright leaves the Chambers (meeting) at 7.21pm.
Cr D Spackman enters the Chambers at 7.21pm.

Canford

Hospitality Consultants Pty Ltd

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e: phil@canford.com.au
mob: 0417 976 009
postal: PO Box 389
GUILDFORD WA 6935

Liquor Barons Kununurra

116 Coolibah Drive, Kununurra WA 6743



Application for a
Liquor Store Licence

Section 38 Submissions
Public Interest Assessment

April 2015

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1. Introduction

- 1.1 Kununurra Liquor Pty Ltd is applying to the Licensing Authority for the conditional grant of a liquor store licence for premises located at 116 Coolibah Drive, Kununurra, WA 6743.
- 1.2 The proposed name of the liquor store is Liquor Barons Kununurra.
- 1.3 Liquor Barons Kununurra will be a member of the Liquor Barons Group. The Liquor Barons Group has won 'best banner group' in Australia in 2011 and 2014, as voted by the Australian Liquor Stores Association.
- 1.4 According to the Liquor Barons website, "Liquor Barons is the only West Australian based independently owned and operated retail liquor co-operative." Further, it is also stated in the website that "As we are independent and not a soulless franchise, this flexibility allows each store to tailor their range to reflect the taste of its local community and allows us to support smaller boutique and more obscure brands."
- 1.5 This liquor store is a new concept for the locality. The proposal is for a comfortable, convenient, modern browse style liquor store with a fashionable fit-out which will supply a selection of fine wines, premium beers and spirits to the fast growing locality of Kununurra.
- 1.6 The proposed liquor store will be located in the "town centre zone", in a commercial precinct which contains retail outlets, a Subway fast food store and business offices including ABC Radio, real estate, I.T services, art gallery and legal services. There is a cafe located next door to the proposed premises. The subject premises are also close to the Kununurra Police Station.
- 1.7 These submissions are designed to address the public interest requirements as set out in Section 38 of the Liquor Control Act 1988.
- 1.8 These submissions have been drafted by Canford Hospitality Consultants Pty Ltd in consultation with Anthony Martin a director of the applicant company and references to the applicant or the applicant's opinion relate to Mr. Martin.
- 1.9 Section 38(2) of the Act sets out the matters to be taken into account by the Licensing Authority in deciding whether or not to grant a Liquor Store Licence. Specifically it states:
 - 1.9.1 *"An applicant who makes an application to which this subsection applies must satisfy the licensing authority that granting the application is in the public interest"*
- 1.10 Further Section 38(4) sets out the matters to which the Licensing Authority may have regard, as follows;
 - 1.10.1 *"the harm or ill health that might be caused to people, or any group of people, due to the use of liquor; and*
 - 1.10.2 *The impact on the amenity of the locality in which the licensed premises, or proposed licensed premises are, or are to be, situated; and*

- 1.10.3 *Whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises; and*
- 1.10.4 *Any other prescribed matter.”*
- 1.11 The objects of the Act are expressed at s.5 of the Act, which states that the primary objects of the Act are -
- 1.11.1 *to regulate the sale, supply and consumption of liquor; and*
- 1.11.2 *to minimize harm or ill-health caused to people, or any group of people, due to the use of liquor, and*
- 1.11.3 *to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.*
- 1.12 The last primary object was elevated to a primary object of the Act in the 2007 amendments to the Liquor Act.
- 1.13 The 2013/14 review of the Liquor Control Act recommended amendments to the third primary object to remove the phrase “cater for the requirements of consumers” and to amend “proper development of the liquor industry” to “the responsible development of the liquor and related industries”. The Government however does not support these amendments and has stated the “existing objects provide (a) good balance between harm minimisation, industry, tourism, and consumers”.
- 1.14 In carrying out its functions under the Act, the licensing authority shall have regard to the primary objects of the Act and also to the following secondary objects -
- 1.14.1 *“To facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and*
- 1.14.2 *to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and*
- 1.14.3 *to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act”.*
- 1.15 Further Section 5(3) states “If, in carrying out any function under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence”.
- 1.16 The Director General recently published a note providing advice to applicants for a liquor licence on the Department of Racing, Gaming and Liquor website (<http://www.rgl.wa.gov.au/>). In that note, the Director made the following comments;

- 1.16.1 *“The proliferation of liquor outlets is not in the public interest. To increase the number of licensed premises without any real and demonstrable consumer requirement, would represent proliferation without justification.”*
 - 1.16.2 *“The licensing authority must also weigh and balance the requirements of consumers against the object of minimising harm or ill-health caused to people, or any group of people due to the use of liquor.”*
 - 1.16.3 *“For an applicant to discharge its onus under section 38(2), it must address both positive and negative impacts that the grant of the application will have on the local community.”*
 - 1.16.4 *“This means applicants must adduce sufficient evidence to demonstrate the positive aspects of their application, including that the proposed licence will cater for the requirements for consumers for liquor and related services. The Liquor Commission has determined that failing to do this means “...the granting of licences under the Act would become arbitrary and not in accordance with the objects of the Act.” (LC 32/2010:Element WA Pty Ltd)”*
- 1.17 The licensing authority regulates the sale, and supply of alcohol. They seek to strike a balance between catering for the requirements for liquor and liquor related services whilst minimising the potential for harm and ill-health to the community through the abuse of alcohol. So the framework exists for the granting of new liquor licences in appropriate circumstances.
- 1.18 Through these submissions the applicant will demonstrate how this application is in keeping with the primary objects of the Act, and does not constitute a proliferation of liquor licences in this locality.

2. The Locality

- 2.1 The proposed Liquor Barons Kununurra is located at 116 Coolibah Drive, in the town of Kununurra, WA.
- 2.2 Kununurra is described as a lively, booming town on the eastern edge of the Kimberley according to information sourced from the Kimberley Australia Travel Guide website at <http://www.kimberleyaustralia.com/kununurra.html>
- 2.3 The picturesque town takes its name from a local aboriginal word meaning “meeting of the big waters”.
- 2.4 Kununurra is the largest town in Western Australia north of Broome, with the next closest town being Wyndham, 100 kilometres away. Both towns are in the Shire of Wyndham-East Kimberley.
- 2.5 Kununurra is 3,040 kilometres from Perth via the Great Northern Highway. Kununurra is a close 30km distance to the Northern Territory border, with Darwin only a short flight away.
- 2.6 The location of Kununurra in WA is shown in the image below.

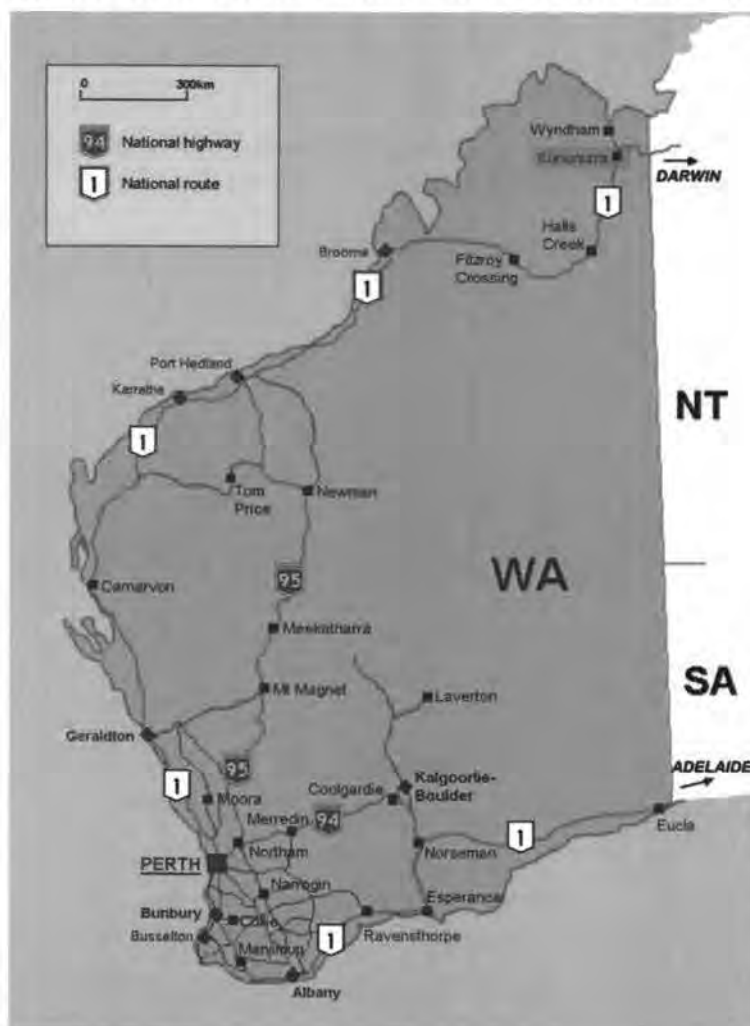


Image sourced from wikipedia.org

- 2.7 In defining the “locality” affected by the application guidance has been provided by “Specification of Locality - A Policy of the Director of Liquor Licensing” last amended on 4th June 2013.
- 2.8 The following information is stated in Attachment 2 - Specification of “Locality”:
- 2.8.1 *In regard to country cities, towns or communities, unless remotely located or the licensing authority determines otherwise, the locality is to be a radius of 3 km from the site of the intended business.*
- 2.8.2 *Where a premises/proposed premises is remotely located; that is, 200kms or beyond from the nearest town or country city, and more than 400kms from Perth, the applicant is to make a submission to the licensing authority regarding the appropriate size of the locality to suit the intended nature of the business.*
- 2.9 As stated in section 1.1, the proposed premises is located at 116 Coolibah Drive in the town of Kununurra. The proposed premises therefore cannot be considered as remotely located as defined in section 2.8.2.
- 2.10 In this document therefore, the locality definition for Kununurra is stated as a 3km radius of the subject premises as per section 2.8.1.
- 2.11 To assist in further defining the locality it will be useful to examine the following factors;
- 2.11.1 The physical location of the premises;
- 2.11.2 The presence of natural or human made boundaries that effectively separate one local community from another; and
- 2.11.3 The perception of the local community and/or key advisers relevant to that community.
- 2.12 The following map, as taken from the Google Maps website shows the location of the proposed premises in Kununurra.
- 2.13 Additionally, the map also roughly illustrates the area encompassed by the 3km radius, by use of a blue circle.



- 2.14 The applicant studied maps of all the suburbs which fall in whole or in part within the 3km radius.
- 2.15 The only suburb that falls in whole within the 3 km radius is Kununurra which is effectively bounded by the presence of natural boundaries including the Hidden Valley (Mirima) National Park to the East, the Ord River and the irrigation scheme to the West and North and Lily Creek Lagoon and Lake Kununurra to the South.
- 2.16 For the purposes of the demographic study required for this public interest assessment the applicant will therefore consider the data relating only to the Kununurra suburb.
- 2.17 The following map, taken from the Australian Bureau of Statistics website (<http://www.censusdata.abs.gov.au>) shows the coverage of Kununurra State Suburb (SSC).



- 2.18 The proposed Liquor Barons Kununurra is to be located in Kununurra town (urban centre).
- 2.19 The following map, taken from the Australian Bureau of Statistics website (<http://www.censusdata.abs.gov.au>) shows the coverage of Kununurra Urban Centre (UCL).



- 2.20 The proposed Liquor Barons Kununurra will be located in the town centre zone as shown in the map below sourced from the Shire of Wyndham-East Kimberley town planning scheme document available at <http://www.swek.wa.gov.au/town-planning-schemes.aspx>



- 2.21 The location of the proposed Liquor Barons Kununurra in the town centre is consistent with the Shire of Wyndham East Kimberley’s planning guidelines as stated in page 70 of the Kununurra structure plan http://www.planning.wa.gov.au/dop_pub_pdf/kwadsec6.pdf

- 2.21.1 *“The Kununurra Town Centre is a major employment hub of the Kununurra-Wyndham area and comprises a full complement of services and facilities.*
- 2.21.2 *The town centre is centrally placed and future residential areas will have good access.*
- 2.21.3 *The Shire’s main objective is to encourage all commercial and retailing to locate in the town centre, while restricting commercial development in other areas.*

2.21.4 *The structure plan shows a consolidated town centre that will cater for Kununurra's commercial, retailing, entertainment and civic uses."*

2.22 The Kununurra structure plan also states in page 69 that:

2.22.1 *"Kununurra is the main service centre for the Kununurra-Wyndham area.*

2.22.2 *People will travel from other parts of the Shire of Wyndham-East Kimberley and as far as Timber Creek in the Northern Territory to use the retail, commercial, community and recreational services and facilities provided in Kununurra.*

2.22.3 *Limitations are felt in choices in shopping, lack of specialist medical services and secondary and higher education facilities.*

2.22.4 *Kununurra is an important visitor destination for Northern Australia and requires a range of accommodation and tourist related facilities." (p.70).*

2.23 As shown in the images below from google maps, the proposed Liquor Barons Kununurra will be located in a commercial precinct which contains retail stores, a café and business offices including real estate, I.T services, art gallery and legal services centre.





2.24 Also nearby is the Kununurra Police Station, the Commonwealth Bank, the Post Office and retail store as shown in the map below sourced from Google maps.



- 2.25 The applicant distributed a witness questionnaire to a representative group of people in the locality to gauge the views of the local community to assist the Director.
- 2.26 When witnesses were asked to describe the nature of the locality and surrounding area to the proposed premises:
- 2.26.1 B. Williams, director / licensee Kimberley Real Estate said, *"Retail precinct with banks, shops, food outlet + tour centre."*
 - 2.26.2 G. Grange said, *"I work Saturday morning at Red Cross which is a couple of doors down. It's a quiet part of town in close proximity to the police station."*
 - 2.26.3 K. Fry said, *"Town centre, non-residential, next to my work."*
 - 2.26.4 E. Kong said, *"Scenic, beautiful green mowed lawns & well maintained buildings. Close to police station & PO."*
 - 2.26.5 B. Langford said, *"Business district."*
 - 2.26.6 R. Klause said, *"Nicer part of town."*
 - 2.26.7 D. Aladin said, *"A good lit up area."*
 - 2.26.8 K. Sloper said, *"Generally clean & tidy."*
 - 2.26.9 J. McCarthy said, *"Busy but not as busy as shopping centre area."*
 - 2.26.10 C. Rasmussen said, *"Prime retail area, easy access and plent(y) of parking."*
 - 2.26.11 R. Menz said, *"Good spot in the centre of town, good for travellers to find."*
 - 2.26.12 S. Kruger said, *"In the middle of town, easily accessible, ample parking."*
 - 2.26.13 M. Johnston said, *"Middle of town. Nice spot."*

3. Demographics of the Locality

- 3.1 The impact of this application on the community within the specified locality is something that any applicant must consider, and is considered here by this applicant.
- 3.2 The Alcohol Support Plan 2012-2015 (the Alcohol Support Plan), summarises the key objectives and supporting initiatives that will be pursued over the coming years to prevent and respond to problematic alcohol use. The Alcohol Support Plan is a supporting document to the Drug and Alcohol Interagency Strategic Framework for Western Australia 2011-2015 (the Interagency Strategic Framework), which seeks to prevent and reduce the adverse impacts of alcohol and other drugs (AOD) in Western Australia (WA).
- 3.3 The Alcohol Support Plan 2012-2015 states that *“The evidence demonstrates that some population groups experience greater impacts from alcohol and other drug use than others and therefore require additional support. Priority population groups include:*
- 3.3.1 *Aboriginal people and communities.*
 - 3.3.2 *Children and young people.*
 - 3.3.3 *People with co-occurring mental health and alcohol and other drug problems.*
 - 3.3.4 *People in rural and remote areas.*
 - 3.3.5 *Families, including alcohol and other drug using parents.*
 - 3.3.6 *Offenders.*
- 3.4 In March 2015 the applicant received confirmation from the Drug and Alcohol Office (DAO) that this was the most current report available. An email on 17th March 2015 from Kendall Hutchinson confirmed this was so.
- 3.5 In September 2014, the applicant sought clarification from the DAO regarding the definition of the term “family” as used in the Western Australia Drug and Alcohol Strategy 2005 -2009 document.
- 3.6 The Drug and Alcohol Office replied that *“a specific definition of family is not provided in the Strategy document. There are a number of reasons for this, including:*
- 3.6.1 *Recognition of the cultural diversity in Western Australia and that the definition of family can be different for different cultures.*
 - 3.6.2 *Recognition that the impact of an individual’s drug and alcohol use is not always confined to a household or what has in the past been defined as the ‘immediate family’ - it can impact more broadly on family members who are external to a household. For example Grandparents, Aunts and Uncles are commonly reported to be impacted upon.*
 - 3.6.3 *Recognition that not all families are biologically related but can still be impacted on by a persons drug or alcohol use - for example step children/guardians.”*

- 3.7 With such a broad definition it is impossible for the applicant to identify or quantify this priority group in the locality.
- 3.8 The following groups were also unable to be considered, as data was not available for them;
- 3.8.1 people with co-occurring mental health and alcohol and other drug problems;
- 3.8.2 families, including alcohol and other drug using parents;
- 3.8.3 offenders.
- 3.9 However, the applicant considered all of the above priority groups for which data is readily available.
- 3.10 The ABS divides Western Australia into two parts, as follows:
- 3.10.1 Greater Perth; and
- 3.10.2 Rest of WA.
- 3.11 The proposed liquor store is located within the Rest of WA.
- 3.12 Below is a map taken from the Australian Bureau of Statistics website showing the coverage of Rest of WA.



Rest of WA

- 3.13 As stated in paragraph 2.4, Kununurra is located in the Shire of Wyndham East Kimberley.
- 3.14 The Shire covers an area of 121,000 square kilometres and is one of four local governments that make up the Kimberley region. The Shire includes the towns of Kununurra and Wyndham and there are also a number of Aboriginal Communities; the largest being Kalumburu, which is situated in the northern part of the Shire.

3.15 Below is a map taken from the Australian Bureau of Statistics website showing the coverage of the Shire of Wyndham East Kimberley Local Government Area



3.16 For the purpose of this demographic study, the applicant has compared selected topics from the ABS Census data 2011 for the locality with the same information for the Rest of WA and the Shire of Wyndham East Kimberley (SWEK) Local Government Area in order to build up a demographic snapshot of the locality.

3.17 The information has been placed in the following table.

ABS Census 2011	State Suburb	SWEK	REST OF WA
Total Persons	5, 525	7,799	502,594
Aboriginal and Torres Strait Islander People	25.8%	34.8%	8.4 %
Age			
Persons aged between 20 and 24	7.3%	7.2%	5.8%
Country of birth			
Australia	76.4%	78.2%	74.2%
Country of birth			
Both parents born overseas	19.3%	16.4%	23.7%
Language			
English only spoken at home	80.0%	79.6%	84.5%
Employment			
Unemployed	3.5%	4.9%	4.4%
Employment			
Worked full-time	71.8%	68.5%	62.4%

ABS Census 2011	State Suburb	SWEK	REST OF WA
Employment			
Worked 40 hours or more	58.4%	57.9%	47.9%
Employment status of couple families			
Both employed, worked full-time	35.4%	31.7 %	21.2%
Employment status of couple families			
Both not working	6.2%	8.6%	15.6 %
Employment- Occupation			
Professionals	19.5%	19.1%	13.3%
Employment- Occupation			
Managers	13.7%	13.1%	15.1%
Employment- Occupation			
Labourers/Machinery operators & drivers/Technicians & trade workers	34.8%	36.9%	43.1%
Industry of employment by occupation			
Mining	7.3%	9.3%	11.2%
Industry of employment by occupation			
Accommodation & food services	5.9%	6.6%	6.1%
Median weekly income			
Personal	\$886	\$794	\$641
Median weekly income			
Family	\$1,910	\$1,718	\$1,494
Household income			
More than \$3,000 gross weekly	18.8%	15.9%	11.4%
Household composition			
One parent family	16.1%	20.0%	14.3%
Household composition			
Couple family with no children	43.1%	39.5%	41.9%
Median mortgage repayments			
	\$2,200	\$2,167	\$1,627
Mortgage monthly repayments			
Households where mortgage repayments are less than 30% of household income	94.9%	91.7%	92.7%
Households where mortgage repayments are 30% or greater of household income			
	5.1%	8.3%	7.3%

3.18 The purpose of considering the demographic data for the locality is to establish whether the priority groups identified in paragraph 3.3 are over or under represented in the locality.

3.19 Aboriginal people and communities;

3.19.1 The table above indicates that in 2011 the percentage of aboriginal people in the locality was much lower at 25.8%, compared with the figure for the Shire of Wyndham-East Kimberley at 34.8%.

3.19.2 Compared to other major towns in the Kimberly Region, Kununurra has a lower percentage of Aboriginal people as shown in the table below.

Town	Population (2011)	Percentage of Aboriginal population
Derby	4,865	25.2%
Kununurra	5,525	25.8%
Broome	4,290	32.2%
SWEK	7,799	34.8%
Kimberley	34,794	40.0%
Wyndham	1,003	51.0%
Fitzroy Crossing	1,114	66.6%
Halls Creek	1,443	74.5%

Source: ABS Data 2011

3.20 **Conclusion** - This priority population group is over represented in the locality, when compared to the Rest of WA. However, in a regional context (the percentage of Aboriginal people in the Kimberley region as a whole is 40%) the figure is low.

3.21 Children and young people;

3.21.1 The average figure for persons aged between 20 and 24 years in the locality was 7.3%, which is comparable to the Shire figure at 7.2 %.

3.21.2 **Conclusion** - Although higher than the figure for the Rest of WA there is an average representation of this group in the locality in a regional context.

3.22 People from regional, rural and remote communities;

3.22.1 The National Rural Health Alliance Fact Sheet 2014 <http://ruralhealth.org.au/sites/default/files/publications/nrha-factsheet-alcohol.pdf> states that rural people experience disproportionately high levels of alcohol misuse due to a range of factors including lack of venues for recreation, stoic attitudes about help-seeking, economic and employment disadvantage, and less access to healthcare professionals and alcohol treatment services.

- 3.22.2 The locality (Kununurra suburb) is a regional, rural area but it is not remote as demonstrated in paragraph 2.9.
- 3.22.3 It is also worth noting that Kununurra is the administrative centre for the Shire of Wyndham-East Kimberley and, as stated in page 64 of the Structure Plan mentioned in paragraph 2.18, *“the strategic location of Kununurra (40km from the WA/NT border) will enable Kununurra to remain the regional center for the Kununurra-Wyndham area servicing a population catchment as far away as Timber Creek in the NT.”*
- 3.22.4 It will also be demonstrated in other sections of these submissions that the locality does not have economic and employment disadvantage and as stated in paragraph 5.1, Kununurra has a strong, multi-tiered economy, combining tourism, agriculture and resources.
- 3.22.5 Kununurra is also listed as one of Australia’s Regional Cities on the Australia Tourism webpage which is found at <http://www.australia.com/explore/cities/regional-cities.aspx>
- 3.23 Migrant groups from non-English speaking countries;
 - 3.23.1 The average number of persons born in Australia in the locality was higher at 76.4%, compared to Rest of WA at 74.2%. The locality has a much lower percentage of households where both parents were born overseas (19.3%) than the Rest of WA (23.7%).
 - 3.23.2 **Conclusion - This group is under represented in the locality.**
- 3.24 People in low socio-economic areas;
 - 3.24.1 The median family income for the locality was higher, at \$1,910, compared to the Shire figure at \$1,718 and Rest of WA figure at \$1,494.
 - 3.24.2 The locality also recorded higher personal incomes at \$886 than both the Shire (\$794) and the Rest of WA (\$641).
 - 3.24.3 In 2011 there was a higher percentage of households in the locality with an income of more than \$3,000 (18.8%) than the Shire at 15.9% and the Rest of WA at 11.4%.
 - 3.24.4 The unemployment rate in the locality was much lower at 3.5%, compared to the Shire at 4.9 % and the Rest of WA at 4.4%.
 - 3.24.5 The locality had a higher percentage of people working fulltime at 71.8% than both the Shire (68.5%) and the Rest of WA (62.4%).
 - 3.24.6 The locality also had a higher percentage of people working 40 hours or more, at 58.4%, than both the Shire (57.9%) and the Rest of WA (47.9%).

- 3.24.7 The percentage figure for “Employment status of couple families, both employed” was much higher at 35.4% against 31.7% and 21.2% for the Shire and Rest of WA respectively.
 - 3.24.8 In 2011, the percentage of people in the locality working as professionals/managers was also higher at 33.2% compared to the Shire at 32.2% and the Rest of WA at 28.4%.
 - 3.24.9 Whilst the locality’s average median mortgage repayment in 2011 was higher at \$2,200 than for the Shire (\$2,167) and the Rest of WA (\$1,627), the percentage of households where mortgage repayments were less than 30% of household income was higher at 94.9% compared to the Shire at 91.7% and the Rest of WA at 92.7%. The percentage of households where mortgage repayments were higher than 30% of household income was also significantly lower at 5.1% compared to 8.3% for the Shire and 7.3% for the Rest of WA.
 - 3.24.10 So the locality is characterized by high value mortgages and yet low rates of mortgage stress.
 - 3.24.11 **Conclusion** - This data underlines the applicant’s assertion that the locality is relatively advantaged, with high income and employment figures, and low mortgage stress figures.
- 3.25 Mining communities or communities with a high number of itinerant workers;
- 3.25.1 The average figure for persons working in the mining industry in the locality was low at 7.3%, against the Rest of WA figure of 11.2%.
 - 3.25.2 ABS data further reveals that Kununurra also has a higher percentage of people working in Healthcare, Public Administration, and Education and Training. Combined they total 29.0%, higher than the Rest of WA figure at 21.6%.
 - 3.25.3 **Conclusion** - This priority group is under represented in the locality.
- 3.26 Communities that experience high tourist numbers
- 3.26.1 The locality is a known tourist area, as stated in paragraph 2.22.4. The locality around the subject premises is a designated commercial zone according to the town planning scheme presented in paragraph 2.20. The designated tourist nodes are set away from the commercial zone, in the vicinity of Lake Kununurra, Kora Inlet & Lily Creek.
 - 3.26.2 According to information presented in the 2013 East Kimberley Tourism Plan 2022 available at http://www.swek.wa.gov.au/Assets/Documents/Content/Tourism_Documents/Final_Report_-_East_Kimberley_Tourism_Plan_-_FINAL_ID_24338.pdf the main tourist market segments in the Kimberley include grey explorers and dedicated discoverers.
 - 3.26.3 The Grey Explorers have represented the cornerstone of annual tourism visitation for the East Kimberley in past years.

Most current East Kimberley tourism strategies are focussed on this market segment.

3.26.4 Grey Explorers or grey nomads is a segment of tourists that are defined as travelers aged 60 years or older. This discerning group of tourists is said to “appreciate a product or service that is value for money” such as is proposed by this applicant. Low prices and discounting is not enough for this market which also requires “*Facilities should be clean, well-maintained and secure*”. This is very much consistent with the style of liquor store that this applicant is proposing and which is demonstrated in other sections of these submissions.

3.26.5 Dedicated discoverers are described as a community-minded, socially active group that is drawn to ‘undiscovered’ destinations. They tend to have household incomes in excess of \$100,000 p.a. and are classed as big discretionary spenders. Dedicated discoverers are more likely to visit well serviced towns.

3.27 In summary the ABS demographics show a regional locality with positive socio-economic indicators of employment, income, rent and mortgage repayments, indicating a stable population with high employment rates leading to higher than average income.

3.28 In addition to the ABS data presented in the table above, the applicant has also evaluated data presented in the East Kimberley @25 (EK@25) document prepared for the Shire of Wyndham East Kimberley by MacroPlan Australia Pty Ltd in November 2013 (See <http://www.swek.wa.gov.au/Assets/Documents/Content/Council/EK25K.pdf> for the full document).

3.29 The EK@25 research document outlines a growth pathway for the Shire to reach a population of 25,000 and utilises a wide range of data sources including ABS census data, WA Dept. of Planning data sets, market information, Regional Australia insight & benchmark ratings, Tourism Research Australia, proprietary and private data sets.

3.30 The EK@25 research document provides an analysis of population demographics and reviews current assumptions related to growth.

3.31 The EK@25 research document also profiles the local economy identifying the main economic drivers (both current and potential) including analysis of economic activity, labour force and employment trends.

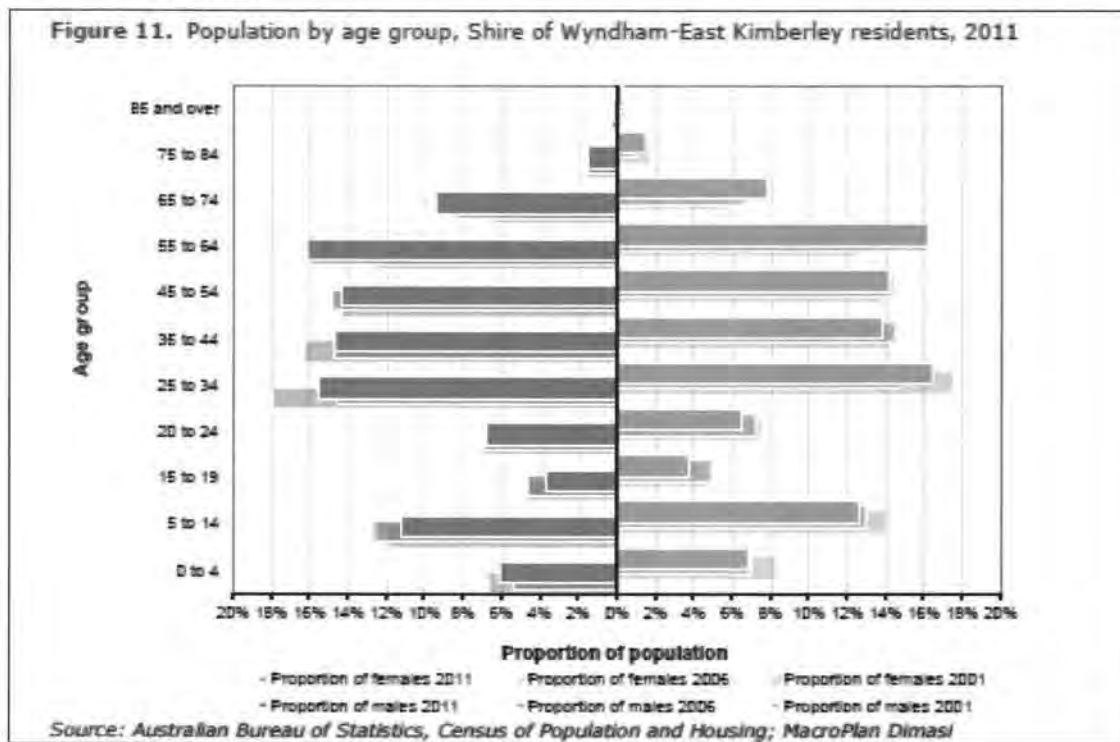
3.32 The applicant believes that an evaluation of the EK@25 research document will further strengthen the conclusions of the ABS data presented in paragraph 3.27 and provide a more comprehensive demographic snapshot of the locality in comparison to the greater Kimberley region and Western Australia as a whole.

3.33 The following statements and figures are cited from the EK@25:

POPULATION

3.33.1 Over the period 2001 to 2011, the number of residents in the Shire increased by 2.5% per annum to approximately 11,915 people in 2011 (p.25).

3.33.2 As shown in the table below, the number of people aged between 15 and 44 years fell. People aged between 55-64 years accounted for the largest proportion of total residents in 2011(16.21%). Residents aged between 65 to 74 years experienced the most substantial growth from 2001-2011, increasing by 5.3 per annum to now account for 6.11% of the residents



EMPLOYMENT

3.33.3 The unemployment rate of the labour force in the Shire in 2011 was 4.9% which was lower than in the surrounding Kimberley region (5.4%) and only marginally higher than the Perth Metropolitan area (4.7%) as shown in the table below (p.23).

Table 10. Labour Force, 2011

Employment	Shire of Wyndham-East Kimberley	Kimberley Region	Western Australia
Employed	3,738	14,404	1,097,882
Unemployed	192	821	54,318
Unemployment rate	4.9%	5.4%	4.7%

Source: ABS Census 2011

3.33.4 Over the period of 2001 to 2011, the number of employed residents in the Shire has increased by 1.4% p.a. In particular, the number of residents in full time work increased by 1.9% per annum (p.27).

3.33.5 Some significant industries of employment were related to heavy and general industry such as construction, transport, mining and warehousing, suggesting a strong local economy and a lower dependency on government assistance (p.46).

3.33.6 However professional services accounted for the largest proportion of employed persons across the entire time series, constituting 19.8% of employed residents in 2011, followed by technicians and trade workers at 18.5%, and clerical and administrative workers, at 12.5% of the employed residents (p.44).

INCOME

3.33.7 In line with the increase in the number of employed residents in the area, the income generated by residents increased considerably over the decade. The median family income rose by 6.7% per annum to total \$1,718 per week in 2011. Further, median household and individual incomes grew by 5.5% and 5.6% pa respectively.

3.33.8 In 2011, the average individual income was \$794 per week for residents living in the Shire. This was significantly higher than the average income in the surrounding Kimberley region (\$667 per week), and in Western Australia (\$662 per week).(p.23)

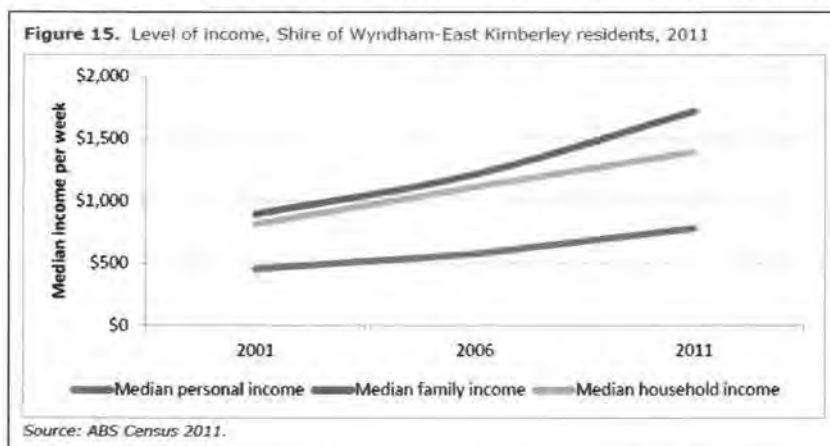
3.33.9 Similarly the average household and family incomes for the Shire were also higher than the average corresponding area (p.23).

3.33.10 The table below shows a comparison of the income and household expenses (p.23).

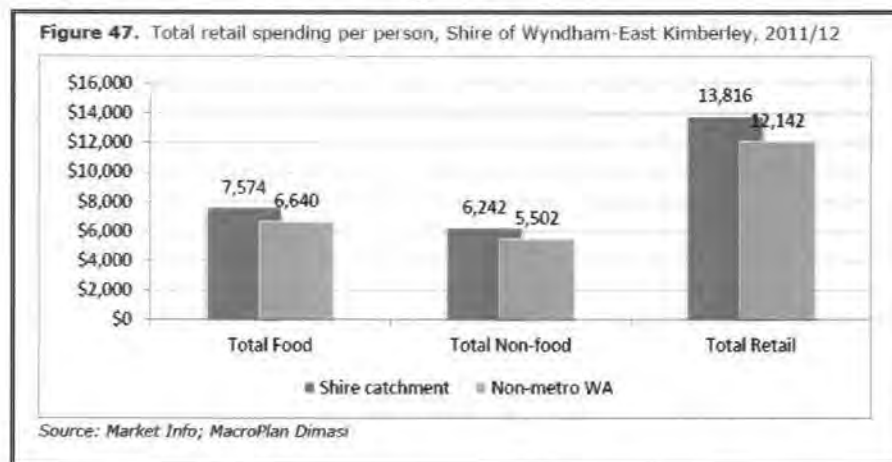
Table 11. Income and household expenses, 2011

Income and Household Expenses (2011)	Shire of Wyndham-East Kimberley	Kimberley Region	Western Australia
Median individual weekly income	\$794	\$667	\$662
Median family income	\$1,718	\$1,498	\$1,722
Median household income	\$1,547	\$1,437	\$1,415
Average weekly rent	\$120	\$125	\$300
Median monthly mortgage repayments	\$2,167	\$2,383	\$1,950

3.33.11 Median household and individual incomes in the Shire have steadily grown with the increase in the number of employed residents in the area as shown in the figure below (p.30).



3.33.12 Retail spending in the Shire is well above average in all categories as shown in the figure below.



3.33.13 SWEK@25 also states *“that North West Australians (sic) residents spend significantly more than the national average on online shopping, given the gaps that exist in the services in the region”* (See p.59).

3.33.14 *“For the Shire in particular, the above indicates that there are currently gaps in the provision of appropriate retailers in the township”* (p.59).

3.33.15 The gap in *“appropriate retailers”* is evident in the provision of packaged liquor services in Kununurra, as will be borne out by witness evidence presented in, and attached to, these submissions.

3.33.16 The applicant states that this proposal for a liquor store licence is motivated by the need to provide a service that is not currently available in Kununurra thereby filling an existing gap in the provision of packaged liquor services.

DWELLING (p.22)

3.33.17 The proportion of dwellings that are fully owned (i.e. not mortgaged) by their occupants in the area (17.0%) is higher than the average for the Kimberley region (14.7%) but lower than the average for Western Australia (29.5%).

3.34 In conclusion, the EK@25 research document, has provided evidence showing that the region represented by the Shire of Wyndham East Kimberley which includes the towns of Kununurra and Wyndham has lower unemployment rates and residents generally have higher disposable incomes in comparison with the greater Kimberley region and the Rest of WA.

3.35 As stated in paragraph 3.33.5, this locality shows a strong local economy and a lower dependency on government assistance including public housing. This is consistent with the conclusion provided by an analysis of ABS data and stated in paragraph 3.27 of Kununurra as *“a regional locality with a positive socio-economic indicators of employment, income, rent and mortgage repayments, indicating a stable population with high employment rates leading to higher than average income.”*

4. Growth in Population in Kununurra

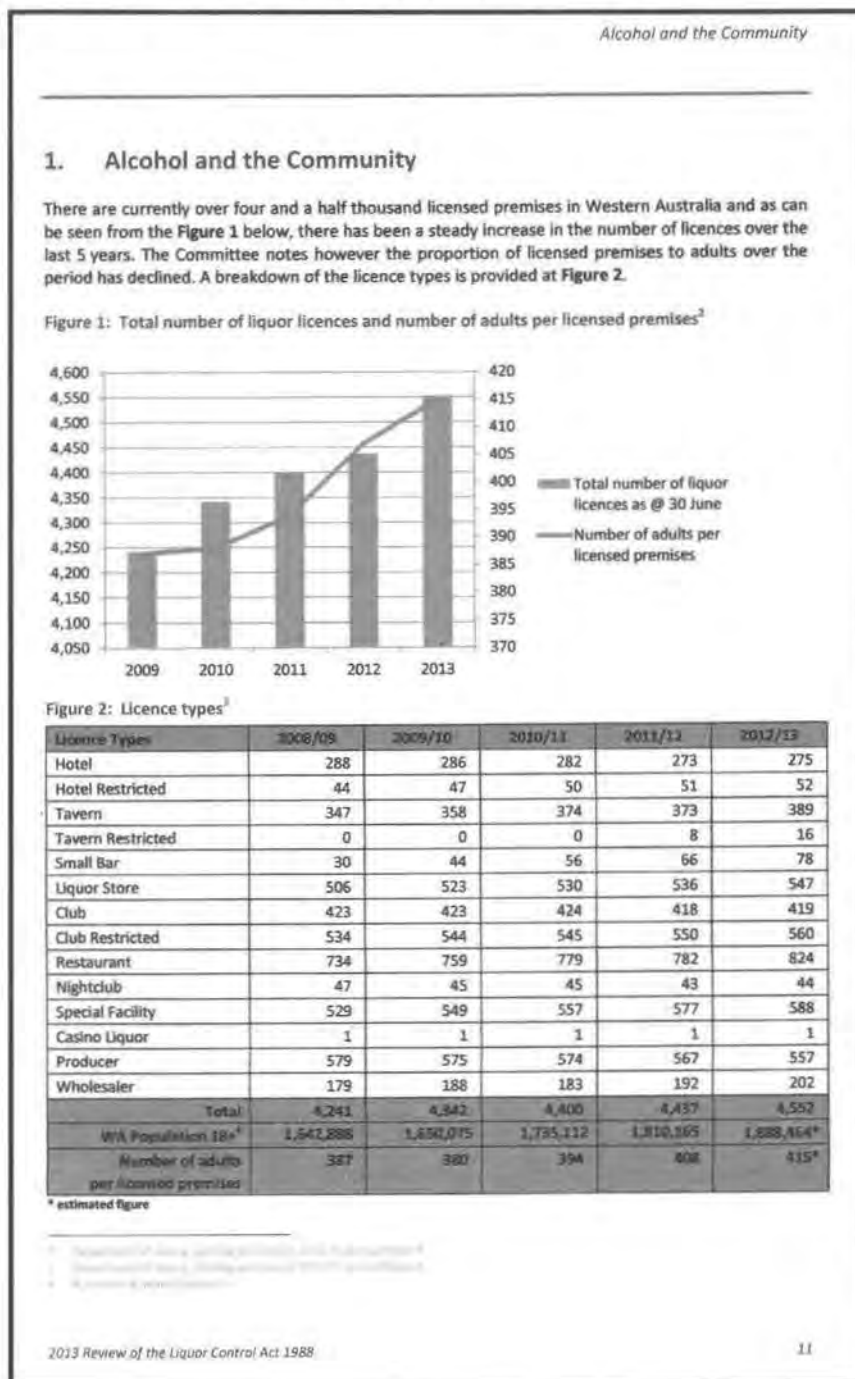
- 4.1 As stated in paragraph 1.17, in regulating the sale and supply of alcohol, the licensing authority seeks to strike a balance between catering for the requirements for liquor and liquor related services whilst minimising the potential for harm and ill-health to the community through the abuse of alcohol. So the framework exists for the granting of new liquor licences in appropriate circumstances.
- 4.2 In the current review of the Liquor Act Minister Waldron provided further insight into the Government's intent when he said in his media statement of 18th November 2014 *"the Government's response to the review can be characterised as a balanced approach to consumer expectations, red tape reduction and targeted harm minimisation strategies"*.
- 4.3 This proposal is for a convenient browse style liquor store which will supply a selection of fine wines, premium beers and spirits to the fast growing locality of Kununurra.
- 4.4 It is quite apparent that this locality is expected to grow substantially in the future. The Kununurra Chamber of Commerce and Industry (KCCI) states on its website <http://kcci.com.au/about/the-east-kimberly-region.html>

"Kununurra has a population of approximately 7,000 people, and is expected to experience strong population growth in the next few years. This strong growth is due in large measure to the three-fold expansion of the Ord River Irrigation Area, and also in part due to many government departments which service the East Kimberley being based in Kununurra. The Argyle Diamond Mine, the largest diamond mine in the world, is also located some 120 kilometres by road from Kununurra; a shorter distance by air. Other products mined in the East Kimberley include gold, lead, zinc and with the prospect of platinum, nickel and copper in the near future. Large deposits of bauxite also exist in the area. Offshore reserves of oil and gas also have substantial potential and plans are currently underway to commence mining these off the Kimberley coast."

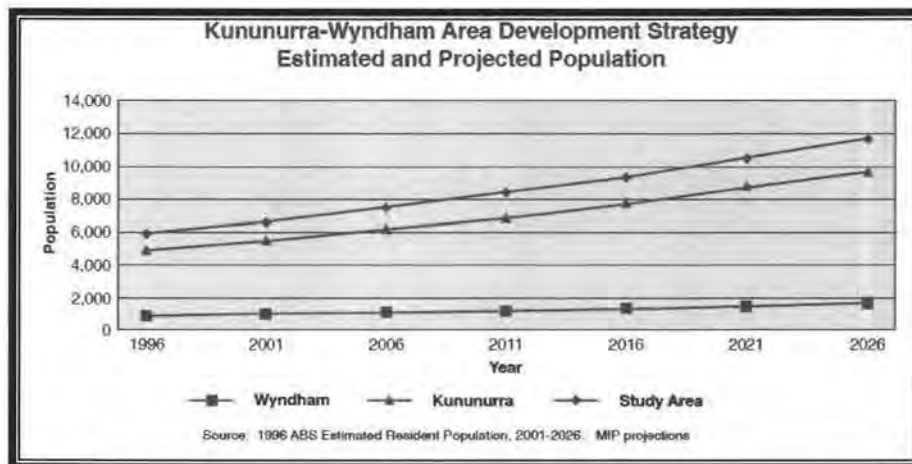
- 4.5 The Strategic Community Plan 2012-2022 produced by the Shire of Wyndham East Kimberley also states on page 4:
- 4.5.1 *"It is an exciting time to live in the East Kimberley with rapid population growth due to the expansion of the Ord Irrigation area, new mining prospects, a thriving tourism industry and the associated infrastructure and employment opportunities."*
- 4.6 The need to cater to the demands of the growing population is stated in the Kununurra Structure plan on page 64:
- 4.6.1 *"The nature of Kununurra has changed. In the past the town's population comprised a large proportion of short-term residents. In more recent times there has been a trend towards increased length of stay and the town has consequently become demographically stable."*

4.6.2 *Lifestyle and recreation pursuits are now major considerations in the planning and development of Kununurra.*"

- 4.7 The closure of the Liquorland store in Kununurra in August 2014 means the growing town has one fewer packaged liquor outlet. It has also deprived the town of its only browse style liquor store, as the two remaining outlets are drive through facilities.
- 4.8 In the recent review of the Liquor Control Act 1988, it was found that the number of licensed premises, as compared to the number of WA adults has declined from 2009 to 2013.
- 4.9 Shown below is a table extracted from this review.



- 4.10 At a time of increasing population it is quite clear that there will be increased demand for packaged liquor and related services.
- 4.11 The Kununurra Structure Plan (2011) prepared jointly by the Ministry for Planning and the Shire of Wyndham-East Kimberley is designed to guide development in the Town of Kununurra for a 15-year period.
- 4.12 The following information was sourced from the structure plan which is available at <http://www.planning.wa.gov.au>
- 4.12.1 *“Substantial regional growth has occurred in Kununurra in the last decade from increased investment and activity in Ord River agriculture, mining and tourism.*
- 4.12.2 *The population of Kununurra is expected to continue to grow at a steady rate, driven by a healthy economy and further development of service industry and administration functions.*
- 4.12.3 *The town’s population could easily double in size in the next 15 years. Based on current growth rates (average of 2.3 per cent over a census period) the population of Kununurra could reach 7,000 in 2011 and about 10,000 in 2026 as shown in the table below.”*



Source: http://www.planning.wa.gov.au/dop_pub_pdf/kwadssec3.pdf

- 4.13 The East Kimberley@25K (EK@25) is a research document that outlines the growth pathway for the Shire of Wyndham East-Kimberley to reach a population of 25,000 people. (See <http://www.swek.wa.gov.au/Assets/Documents/Content/Council/EK25K.pdf> for the full document)
- 4.14 The EK@25 states in the Executive Summary page that:
- 4.14.1 *“The aspiration for the Shire is for future population growth at around 4.0 per cent per annum which will take the Shire to a population of 25,000 residents by 2041.*
- 4.14.2 *The growth is based on an aspiration of 5.0 per cent growth per annum, for Kununurra and 2.2 per cent growth for Wyndham and the rest of the Shire.*
- 4.14.3 *Taking the non-residents into account (FIFO workers, tourists/visitors), then the Shire will reach that population nearly five years earlier.*

4.14.4 *In terms of infrastructure planning, the additional non-resident people will need some level of service) utilities, accommodation, health, retail, etc) so they make up an important component of the total population."*

4.15 It has even been suggested that Lake Argyle could be the location for a future 'second capital' according to an article in ABC News <http://www.abc.net.au/news/2014-08-31/lake-argyle-future-development-of-australia-north/5708436>

4.16 The article states that:

4.16.1 *"A new northern capital on the shores of Lake Argyle could sustain a population of 150,000 people.*

4.16.2 *The plans include an international airport which could connect the East Kimberley with Asian centres like Jakarta and Hong Kong."*

4.17 The image below shows an artist's impression of the proposed Lake Argyle City.



Source:<http://www.abc.net.au/news/2014-08-31/lake-argyle-future-development-of-australia-north/5708436>

4.18 As shown in the photos below taken by the applicant during a site visit in September 2014, planning for the future growth of Kununurra is already underway, with the advertised sale of substantial amounts of commercial land.



4.19 Also for sale is residential land to cater for the demands of the growing population in Kununurra as shown in the images below taken by the applicant during a site visit in September 2014.







4.20 Also shown below are more images taken by the applicant that show construction activity currently going on in Kununurra.





5. Strong Local Economy and Growing Aboriginal Middle Class

- 5.1 Kununurra has a strong, multi-tiered economy, combining tourism, agriculture and resources.
- 5.2 Information posted by the Kimberley Development Commission (KDC) (<http://kdc.wa.gov.au/economic-activity/resources/>) states that the total value of resources commodities in the Kimberley was \$1.02 billion in 2010/11. The main contributors were iron ore (\$430 million), diamonds and crude oil (\$305 million), nickel, copper and cobalt (\$222 million) and gold (\$58 million).
- 5.3 Kununurra is the major centre for the Argyle Diamond Mine (Rio Tinto) which is one of the world's largest suppliers of diamonds, producing approximately 20 million carats each year. Argyle Diamonds play a major role in the Kununurra community with support and sponsorship of various East Kimberley events.
- 5.4 The Argyle Diamond Mine employs approximately 750 people with the majority working at the mine site. Argyle has increased the representation of Aboriginal people in its workforce, leading to the rate of Aboriginal employment at the mine being 25% of the total workforce in 2012.
- 5.5 According to an article in the Sydney Morning Herald (available at <http://www.smh.com.au/national/on-the-cusp-of-a-new-dawn-20121116-29h7k.html>) the increase in Aboriginal participation in the booming mining sector has led to the emergence of an Aboriginal middle class. The article states that in the Pilbara, Rio Tinto Iron Ore had more than 1,000 indigenous employees in 2012 and Fortescue Metals Group had over 300. These companies also awarded more than \$300 million in 2012 to indigenous contracting companies in the Pilbara.
- 5.6 As stated in paragraph 3.33.3, employment in mining, construction, transport and warehousing in Kununurra and Wyndham (Shire of Wyndham-East Kimberley) has led to a strong local economy and a lower dependency on government assistance.
- 5.7 The images below taken by the applicant during a site visit in September 2014 show a high standard of living in Kununurra bolstered by the strong local economy.



(The images above show typical suburban residences in Kununurra. Many are large houses with 2 or more cars and a boat)

Tourism

- 5.8 Tourism is also a cornerstone of Kununurra economy.
- 5.9 Kununurra is commonly called the ‘Gateway to the East Kimberley’ and is a fantastic base for tourists to explore the many natural phenomena of the East Kimberley including rocky mountains, deep gorges and waterfalls that covers the north-western top of Australia, between Kununurra and Broome.
- 5.10 It is estimated that around 282,420 individuals visited the Kimberley in 2010/2011. The locality of Kununurra received 112,330 visitors as shown in the table below sourced from East Kimberley Tourist Plan (2022).

Locality	Total
Broome	268,820
Derby	45,580
Fitzroy Crossing	59,880
Halls Creek	48,720
Kununurra	112,330

Regional visitor number estimated (2010/2011)

Month	2005	2006	2007	2008	2009	2010	2011	2012	2013
JANUARY	898	1843	1795	1623	1481	1290	1687	1378	1478
FEBRUARY	1203	1279	1681	1787	1751	1785	1891	1352	1948
MARCH	1728	1652	2473	2558	2575	2777	2848	2497	2076
APRIL	2903	3435	4814	5212	6242	6010	5362	3907	6849
MAY	8188	10235	11552	11994	12046	14644	11751	12228	13998
JUNE	15706	11461	18808	16558	16313	17045	16728	17028	
JULY	21001	18475	20716	20281	21963	21774	21366	18686	
AUGUST	16419	14725	16254	14776	15697	15727	15909	14601	
SEPTEMBER	9414	8548	9158	9073	9394	8682	7322	7916	
OCTOBER	5595	5705	5518	5538	5870	5215	4405	3934	
NOVEMBER	2913	3071	2997	2397	3016	2995	2281	2012	
DECEMBER	1482	1611	1478	1267	1990	1615	1714	1450	
Total	87450	82040	97244	93064	98338	99599	93264	86989	

Kununurra Visitor Centre- Door Counts

- 5.11 According to information sourced from The Kimberley Echo <http://www.westregionalsales.com.au/images/westregionals/profiles/KimberleyEcho.pdf> during every day of the busy dry season, as many as 900 people flow through the doors of the Kununurra Visitor Centre.
- 5.12 Highlights include the Bungle Bungle Range, Karijini National Park, the many ancient gorges featured along the Gibb River Road, and Lake Argyle.
- 5.13 Fishing, camping, hiking and 4 wheel driving are all very popular, with some people moving to the Kimberley just to chase the barramundi.

- 5.14 Kununurra offers many popular events for locals and tourists alike including the Ord Valley Muster, The Kimberley Moon Experience, Lake Argyle Swim and the Kununurra Agricultural Show.
- 5.15 The Ord Valley Muster is a popular annual event. Over two busy weeks in May each year, it celebrates the character of the Ord Valley and showcases the area's heritage and culture. The event features over 30 events and attracts around 10,000 visitors across the 10 day festival.
- 5.16 Below is an advertisement for the 2015 Ord Valley Muster.



- 5.17 The Kimberley Moon Experience held on the banks of the majestic Ord River, is the 'jewel in the crown' of the festival with its grand opening concert. With ever increasing crowd numbers, it's already a permanent highlight, and is starting to attract interstate and national attention.
- 5.18 Below are images from the sold out 2014 Kimberley Moon Experience that show the popularity and appeal of the festival with locals, visitors and celebrities including former PM Bob Hawke and Manu Feidel, the popular TV chef from Channel 7's My Kitchen Rules who hosted the Kimberley Kitchen and cooked with Muster regular Don Hancey for the

exclusive Durack Dinner. The line-up of the 2014 Kimberley Moon Experience concert also featured Eskimo Joe, The Waifs and John Williamson.





- 5.19 The East Kimberley Tourism Plan (2022) is a policy document developed by the Shire of Wyndham East-Kimberley to guide the sustainable regional growth of tourism to 2022.
- 5.20 The strategic goal of the plan is to increase the value of tourism to the East Kimberley from \$100.5m in 2013 to \$130m by 2022.
- 5.21 There are four (4) strategic objectives identified to achieve the goal:
 - 5.21.1 Targeting growth markets (Target segments, including Business);
 - 5.21.2 Improving access (Making it easier to get to the region)
 - 5.21.3 Building the value of tourism (both visitor and resident perspectives); and
 - 5.21.4 Developing products, services and events to meet the needs and expectations of target market segments.
- 5.22 The market segments of importance to this plan, identified through research and industry consultation phases, are considered to be the “Grey Explorers”, the “Dedicated Discoverers” (as defined by Tourism Western Australia), and the business traveller market segments.

- 5.23 The plan concludes these tourism segments are big spenders, focus on value for money and are more likely to visit well serviced towns.
- 5.24 It is the applicant's opinion that the two drive through packaged liquor outlets currently available in town do not provide a full service for this growing market and the market's growing sophistication. A quality browse style liquor store is needed, with an appropriate range of premium liquor brands, and a service level to match tourist expectations.
- 5.25 The applicants also state that Kununurra is the gateway to WA for tourists and the proposed Liquor Barons Kununurra store will showcase WA produce for visitors and local customers to experience.
- 5.26 When witnesses were asked if they believe the style of liquor store proposed is important for Kununurra tourism:
- 5.26.1 R. Duxbury said, *"Yes! Kununurra relies on tourism and what is proposed will be appealing given tourists will have variety that is generally offered elsewhere at fair prices."*
- 5.26.2 D. Chaplin said, *"Yes. Tourism is a major market here, choice, variety, quality and service are needed."*
- 5.26.3 S. Prunster said, *"Yes. Lots of older tourists drink wine."*
- 5.26.4 M. Ausburn said, *"Definitely! Every year I hear complaints about the current stores and lack of accommodating tourists."*
- 5.26.5 C. Rasmussen said, *"Yes, we have a lot of national and of international tourists whom (sic) mostly after a nice wine."*
- 5.26.6 L. Neugebauer said, *"Yes- people come here for their holidays and don't want to miss their usual quality at liquor shops."*
- 5.26.7 B. Williams, president of the Kununurra Chamber of Commerce and Industry, said, *"Yes. A broader range + better shopping environment for visitors."*
- 5.26.8 S. Petherick said, *"We have a large amount of tourists in store who in the past have commented negatively on the current style available. Looking for a more upmarket style."*
- 5.26.9 J. Wilkinson, Chairperson- Child Protection, said, *"Yes. More attractive for tourist & elevates town to a more sophisticated retail environment."*
- 5.26.10 J. von Leonhardi said, *"Yes. Tourists are used to quality services- quality wines/spirits- delivered with an ambience that reflects the wonder & history of the East Kimberley."*
- 5.26.11 S. Kruger said, *"Yes, because it will show tourists that we have selection. And provide a "fine wine "place."*

Agriculture

- 5.27 Agriculture has played a major role in Kununurra's economy since the town was founded in the 1960's as part of the Ord Valley Irrigation Area.

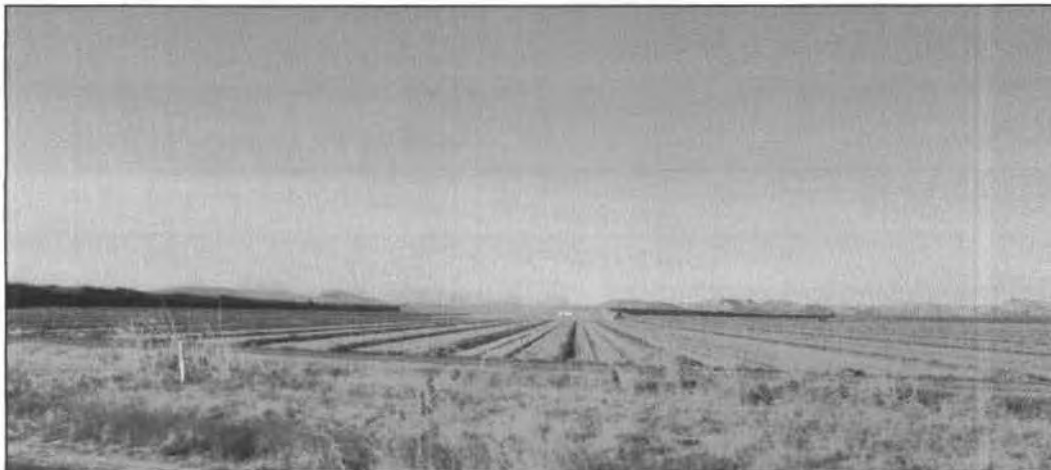
5.28 Below are images taken by the applicant during a site visit in September 2014 showing farming activity in Kununurra.



5.29 The Ord River Irrigation Area (ORIA) includes approximately 14,000 hectares of developed land, which has access to considerable water resources from Lake Argyle on the Ord River.



- 5.30 This land is harvested to produce a diverse range of crops including: chickpeas, sorghum seed, melons, pumpkins, mangoes, bananas, citrus, irrigated pasture, tropical forests and sugar cane



- 5.31 Sugar production accounts for approximately on third, by area, of the cultivated land in the ORIA.



- 5.32 To aid the region's expansion The WA Government recently committed \$220 million from the Royalties for Regions program towards the Ord-East Kimberley-Ord River Irrigation Area (ORIA) Expansion Project.

- 5.33 An extra \$195 million from the Commonwealth Government will enhance social and common use infrastructure.

- 5.34 The images below taken by the applicant during a site visit in September 2014 show the New Kununurra Courthouse which is a State Government project funded by the Royalties for Regions program.





- 5.35 The Ord-East Kimberley Expansion Project is a comprehensive and integrated package of funding initiatives that will create stronger, vibrant and sustainable regional communities in the East Kimberley. The project will include the release of 8,000 hectares of agricultural lots, in conjunction with the improvement of social, community and common-use infrastructure.



- 5.36 As shown in the image below, the development plan aims to create a stronger, vibrant and sustainable regional community in the East Kimberley with positive implications for economic and social development.



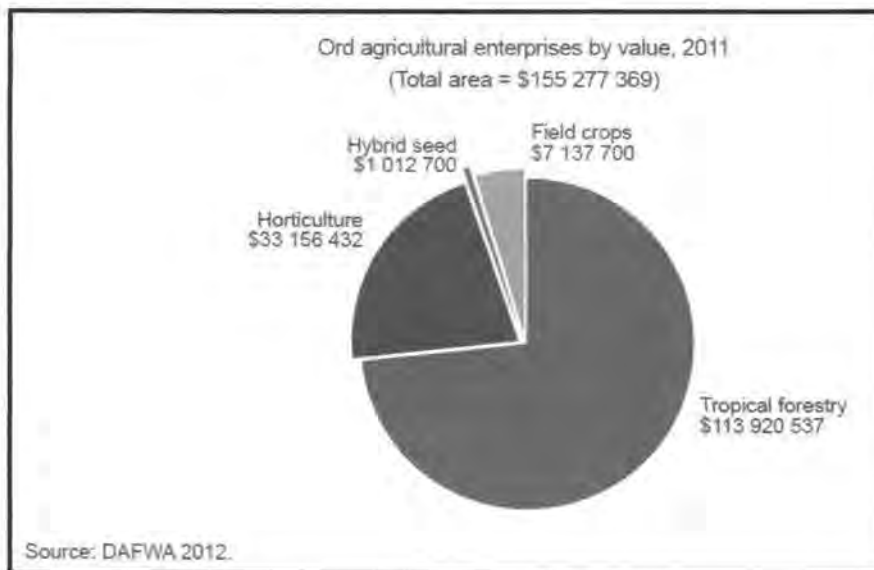
- 5.37 According to information sourced from the Kimberley Development Commission <http://kdc.wa.gov.au/economic-activity/agriculture/>

5.37.1 *"In 2008-09, the Department of Agriculture and Food Western Australia estimated the total value of production of the ORIA to be more than \$101 million. The largest component was sandalwood accounting for \$65.3 million.*

5.37.2 *Other Irrigated Farm activity and their estimated value in 2008-09 includes melons \$2.6 million, pumpkins \$2.4 million, mangoes \$6.7 million, citrus \$2.0 million, chickpea \$1.0 million, chia \$2.6 million, Hybrid seed \$ 3.8 million and other \$15.1 million.*

5.37.3 *The expansion of land available for agriculture serviced by water from Lake Argyle represents a significant opportunity for growers and investors seeking to establish themselves in the region."*

- 5.38 The figure below sourced from the Kimberley workforce development plan 2014-2017 shows the Department of Agriculture and Food (DAFWA) estimated total value of production of the ORIA as more than \$155m in 2011.



5.39 In summary, sections 4 and 5 have demonstrated that :

5.39.1 Kununurra is a major administrative centre for the East Kimberley.

5.39.2 Kununurra has experienced a period of sustained growth in recent years as a result of increased investments in agriculture, mining and tourism.

5.39.3 The development plan for Kununurra aims to create a major regional city with a vibrant economy founded on agriculture, tourism and mining.

5.39.4 Kununurra's population is expected to grow and become more stable due to an increase in employment opportunities in agriculture, mining and tourism.

5.40 As demonstrated here Kununurra has been growing strongly, has a burgeoning middle class, and has a very bright future. There is therefore a growing demand for more and better quality retail services in general, and packaged liquor services specifically in the locality.

6. Alcohol restrictions in Kununurra and Wyndham

- 6.1. The licensing authority has introduced a number of liquor restrictions in areas of the State which cause concern. The vast majority of these liquor restrictions are in the north of WA where the proportion of indigenous Australians is high amongst the general population. These liquor restrictions focus on the following key areas;
- 6.1.1 Reducing trading hours,
- 6.1.2 Reducing the quantity of liquor that may be purchased in a single transaction or by a single person in a certain time period, or
- 6.1.3 Prohibiting the sale of certain types of liquor product.
- 6.2. On February 7th 2011, the Director of Liquor Licensing imposed restrictions on the sale and supply of packaged alcohol in the towns of Kununurra and Wyndham under section 64 of the Liquor Control Act (1998) following consideration of a joint submission from the Executive Director Public Health and the Commissioner of Police regarding alcohol related harm in those communities.
- 6.3. A summary of the restrictions is shown in the table below (sourced from the WA Drug & Alcohol website).

	ALCOHOL STRENGTH	TIME AVAILABILITY	QUANTITY (per person, per day)
a)	2.7% and below (e.g. light beer)	Monday- Saturday 12pm – 8pm	No limit
b)	2.8% - 3.5% (e.g. some mid-strength beers)	Monday- Saturday 12pm – 8pm	11.5 Litres e.g. 30 x 375mL cans
c)	3.6% - 7% (e.g. some mid to full strength beers, some spirits or Ready to Drinks [RTDs])	Monday- Saturday 5pm-8pm	11.5 Litres e.g. 30 x 375mL cans
d)	7% - 15% (e.g. wine, some spirits or RTDs)	Monday- Saturday 5pm-8pm	1.5 Litres e.g. 2 x 750mL bottles
e)	Greater than 15% (e.g. spirits, wines, liqueurs)	Monday- Saturday 5pm-8pm	1 Litre

Liquor may be purchased in the amounts specified in (b) and (c) plus either (d) or (e), but not both.

Source: <http://www.dao.health.wa.gov.au/>

- 6.4. A six month review of the impact of the restrictions was carried out by the WA Drug & Alcohol Office (DAO) in February 2012. (See <http://www.dao.health.wa.gov.au/>)
- 6.5. In the summary of findings, the review noted that:
- 6.5.1 Drinking has become less visible in and around the towns since the restrictions, including fewer itinerant drinking camps and less street drinking;
- 6.5.2 Sundays and Mondays are noticeably quieter post restriction, with significantly less litter and vandalism. Improvements in

community engagement and service delivery on Mondays in particular are attributed to the no-take away sales on Sundays

- 6.5.3 There has been no notable increase in the amount of alcohol being brought into town via transport companies and/or Australia Post. (The applicant will have more to say about this observation later in these submissions)
- 6.5.4 Incidents involving domestic disputes, public disturbances, street drinking and assaults resulting in visits to the ER are generally occurring later at night putting extra pressure on fewer staff.
- 6.5.5 Racial tensions in Kununurra and Wyndham seem to have escalated since the introduction of the restrictions.
- 6.6. The February 2012 review quoted the Kununurra Chamber of Commerce and Industry (KCCI) as identifying three primary areas of concern in relation to the liquor restrictions:
 - 6.6.1 The whole of community approach taken by the restrictions is inconveniencing the total population rather than targeting only those contributing to the problem;
 - 6.6.2 The restrictions are believed to be damaging the “Brand Kununurra” image and therefore may have a long term detrimental impact on tourism; and
 - 6.6.3 It was noted that the restrictions are weakening the Kununurra workforce by making it difficult to attract and retain staff.
- 6.7. In a news article published by the Kununurra Chamber of Commerce & Industry (KCCI) on 23rd March 2012 (Attachment 1- ABC News article dated 20/03/2012), the KCCI states that the;
 - 6.7.1 *“Wyndham/East Kimberley Shire President John Moulden says the study proves not all the impacts have been positive and he is glad the issue has been identified.*
 - 6.7.2 *That’s tended to push the problems related with excessive consumption later into the night and into early morning and that’s made it very difficult for the police, in particular I think and the hospital staff.”*
- 6.8. In the article, the KCCI says some of the findings appear contradictory, with an almost 20% increase in police callouts in Kununurra but a decrease in Wyndham.
- 6.9. Chamber president Brad Williams also commented that people drinking later meant more children on the street.
- 6.10. In November 2012, the restrictions were amended after the Director of Liquor Licensing adopted changes recommended by the Kununurra & Wyndham Liquor Accord.
- 6.11. The new policy allowed the purchase of full-strength alcohol from noon (except on Sundays) and also allowed people to buy a maximum of six bottles of wine instead of two, and up to two cartons of full-strength beer, instead of one. People were also able to apply to pre-order alcohol in bulk. (The new restrictions are attached - attachment 2)

- 6.12. An article published by ABC News on 31st January 2013 (Attachment 3-ABC News article dated 31/01/2013) states that the Kununurra-Wyndham Liquor Accord was pleased with the amendments and cited Accord chairman, Michael Skinner, as saying:
- 6.12.1. "Most people are quite receptive of the change and the increase in allowance that can be obtained.
 - 6.12.2. In terms of negative activity, there doesn't seem to have been any and each venue seems to be quite positive about the reception they're getting in relation to the change in restrictions."
- 6.13. In the twelve month review of the impact of the restrictions carried out by the WA Drug & Alcohol Office (DAO) available at <http://www.dao.health.wa.gov.au/>, findings were similar as for the six month review with respect to fewer drinking camps and quiet Sundays. The review also noted an increase in party houses and the number of young people in the street.
- 6.14. The report noted an increase in police tasking but a reduction in assaults and a marginal reduction in drink driving charges at each random breath test. However, the number of alcohol related Kununurra Hospital emergency department (ED) presentations almost doubled between the hours of 2.00am and 4.00am post restriction.
- 6.15. No further reviews, carried out by DAO, are available on their website. However, there have been other reports that have considered the effect of liquor restrictions in Kununurra and elsewhere in the Kimberley.
- 6.16. The Centre for Independent Studies 2011 report titled "Alcohol Restrictions in Indigenous Communities and Frontier Towns" (see <https://www.cis.org.au/images/stories/policy-monographs/pm-116.pdf>) has considered the effectiveness of recent restrictions in the Northern Territory, Queensland and WA Kimberley towns including Halls Creek and Fitzroy Crossing.
- 6.17. The report argues that although controls on alcohol supply may help mitigate the harms that alcohol causes, they will not solve the alcohol problem and do very little for problem drinkers who will continue to try and obtain alcohol through other means. The report also states that enforcement of the restrictions is critical.
- 6.18. This has been proven in other areas, for example, a newspaper report published in April 2014 (Attachment 4 - ABC News article dated 22/04/2014) states that the Shire of Halls Creek, which is also in the Kimberley, is now calling for a review on the restrictions because "*liquor restrictions in the community are not working and it is time for change.*"
- 6.19. The article further quotes the Shire as stating that "*despite a few good outcomes, the grog ban has also been detrimental in some ways, such as resulting in an increase in cannabis use and sly grogging.*"
- 6.20. The Shire of Halls Creek suggests reintroducing the sale of take-away liquor but with a region-wide problem drinker ID system, and it's CEO, Roger Kerr-Newell said (in the article) "we....need to start a discussion

and it needs to be rational and it needs to be informed and it needs to take account of community opinion". He goes on to say the Restrictions were "a good start but (they haven't) worked".

- 6.21. The call for the introduction of an I.D. to buy liquor in the Kimberley region has also been supported by the Shire of Wyndham East Kimberley president John Moulden according to an article published in January 2014 (Attachment 5 - Kimberley Echo article dated 23/01/14)
- 6.22. With regards to the existing liquor restrictions in the Shire of Wyndham East Kimberley, Shire President John Moulden is cited in the article as saying:
 - 6.22.1. *"The current system was more of a hindrance on the region's important tourism industry than a deterrent for problem drinkers."*
- 6.23. In the same article the Member for Kalgoorlie, Wendy Duncan, is cited as saying "it was apparent to her the Section 64 restrictions were having an impact on the community, but it did not necessarily achieve what they set out to do." She further states:
 - 6.23.1. *"(You have the restrictions but then) the post office had to put on extra people to deal with the extra mail-order liquor coming into town."*
 - 6.23.2. *"The community doesn't get a say and it is quite adversely affected, particularly in the Kimberley and Kununurra where you have a lot of tourists passing through and they have no idea about the rules."*
- 6.24. It is interesting that the DAO found there had been no increase in online liquor purchases through the Post Office, but Ms. Duncan says the Post Office had to put on extra staff to cope with the increase in mail order liquor, and the applicant's extensive witness evidence points to more and more local people buying liquor online through the Post Office.
- 6.25. An article published in February 2014 (Attachment 6 - WA News article dated 28/02/14) states that Kimberley MP Josie Farrer believes alcohol restrictions in two Kimberley towns have discriminated against indigenous people who drink responsibly. Ms. Farrer is cited as saying that measures in Halls Creek and Fitzroy Crossing had merely shifted the problem. She further states:
 - 6.25.1. *"It is a band aid solution because it is just shifting all the problems to other areas where full-strength alcohol is sold."*
- 6.26. Ms. Farrer also states that it is wrong to punish entire communities when the blame rested with a small core. She is cited as saying *"If most people drink moderately, we shouldn't be penalising them."*
- 6.27. In the same article, Broome Liquor Accord chairman, Graeme Campbell agrees with Ms Farrer. He is quoted as saying *"Josie Farrar has a good understanding of the issue and that there should be more attention on the underlying issues of why a minority of Kimberley people have difficulty in dealing with alcohol consumption..."*

- 6.28. The applicants state that they are committed to trading in accordance with the liquor restrictions imposed by the Director of Liquor Licensing and they will be fully supportive and active members of the Kununurra Liquor Accord.
- 6.29. The restrictions have been seen by informed local people as being a good start, but not the solution.
- 6.30. They have unintended consequences on tourism, small business, as well as the vast majority of the population who drink moderately and responsibly.
- 6.31. The applicant postulates that problem drinkers will not be attracted to its proposed liquor store as it will not offer cheap discount liquor, and does not have the floor space to do so. It is happy to work within the current restrictions as well as suitably worded trading conditions on its licence to ensure that it remains true to its proposed way of operating, to safeguard against any future change of ownership. That is not to say that it has any plans to sell its business, as it has no such plans.
- 6.32. The applicants have also drafted a harm minimisation plan that outlines their commitment to the responsible serving of alcohol.

7. The History of the Site and the Motivation for this Application

- 7.1. The applicant states that it has taken some time and effort to secure a suitable premises for this proposal. After lengthy consultations with the local community it was felt a site away from the shopping centre would be more appropriate and easier to manage in a responsible way, to provide patrons with a safe and comfortable liquor shopping experience.
- 7.2. The subject premises the applicant secured for this proposal has been approved for a shop since 1977 but has been vacant for some time.
- 7.3. As stated in paragraph 1.6, the proposed premises is located in the “town centre zone”, in a commercial precinct which contains other retail outlets.
- 7.4. The Kununurra town centre is centrally located and is the major hub for regional commercial, retail, entertainment and civic activity. This means that the site is easily accessible to both residents and visitors.
- 7.5. The applicant’s motivation for this application is to offer a new upmarket liquor store that focuses on outstanding service and offers residents and visitors of the locality:
 - 7.5.1. A comfortable, convenient, modern browse style liquor store;
 - 7.5.2. Unrivalled accessibility to an extensive range of premium wines, spirits and boutique beers;
 - 7.5.3. Guaranteed quality control;
 - 7.5.4. Access to wine tastings and wine education.
 - 7.5.5. A range of gourmet food items sourced from local producers as well as the Margaret River region.
- 7.6. The applicant postulates that this style of liquor store is not currently available in the locality.
- 7.7. As will be demonstrated in section 8 of these submissions, the only other packaged liquor outlets in the locality are two drive through bottleshops which are inconvenient and inadequate particularly for customers who may wish to browse, source new wines, craft beers or premium spirits or gain knowledge about specific liquor products.
- 7.8. The applicant states that it is motivated to offer consumers diversity and choice as well as real value for money by focusing on quality over quantity and providing an enhanced shopping experience including the provision of information on wine and other liquor products.
- 7.9. The applicant further states that it chose this location for the proposed liquor store because it is situated in a high growth area that has a strong local economy as demonstrated in section 4 and 5 of these submissions.
- 7.10. The applicant believes that the services offered by the proposed liquor store are aimed towards supporting the development needs of the locality, including catering to the needs of the local and growing population, particularly the burgeoning middle class, as stated in

section 3 of these submissions, who are most likely to have modern tastes and preferences for good quality liquor products.

- 7.11. The proposed liquor store will also cater to the needs of the growing number of tourists and visitors to the area, particularly the “Grey Explorers”, “Dedicated Discoverers” and the business traveller market segments who, as stated in paragraph 5.23, are big spenders, focus on value for money and are more likely to visit well serviced towns.
- 7.12. This is consistent with the primary object of the Act as stated in paragraph 1.11.3 *“to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.”*
- 7.13. In the questionnaire, witnesses were asked if they believe the style of the liquor store proposed is required in the locality:
- 7.13.1. B. Nielson, who owns the café next door to the proposed premises said, *“I believe it is Yes. The applicants have clearly identified the market that they would like to attract.”*
- 7.13.2. E. Kong said, *“Most definitely. There is a need for quality wine & education. There is definitely a niche market for wine & food connoisseurs here in Kununurra.”*
- 7.13.3. S. Petherick said, *“I’m one of the many people who find Bottle shop service less friendly and personal. Great service brings a totally different clientele & atmosphere. We are missing range and choice in Kununurra.”*
- 7.13.4. S. Julia said, *“Yes, because it’s nothing like it in town. It’s nice to have a dinner between friends with fine wines rather than the same low range all the time.”*
- 7.13.5. D. Mifflin said, *“Yes. So we can enjoy the same services as everywhere else.”*
- 7.13.6. J. Wilkinson, Chairperson- Child Protection, said, *“Yes- absolutely. Real choice options for locals and visitors providing better options similar to other places in (sic) state.”*
- 7.13.7. R. Duxbury said, *“YES! There is nothing like this in Kununurra. Why should I be punished for the actions of others. I want quality & variety at a fair price. Kununurra does not currently offer this.”*
- 7.13.8. C. Rasmussen said, *“Yes the layout look(s) smart and offering real wine info. No takeaway shop here offers anything close to this intended idea.”*
- 7.13.9. J. von Leonhardi said, *“Locally owned & run- invested in the community-Yes. Will provide a quality retail walk in cellars, to browse in.”*
- 7.13.10. J. McCarthy said, *“Yes, we are lacking boutique quality wines & educated service.”*

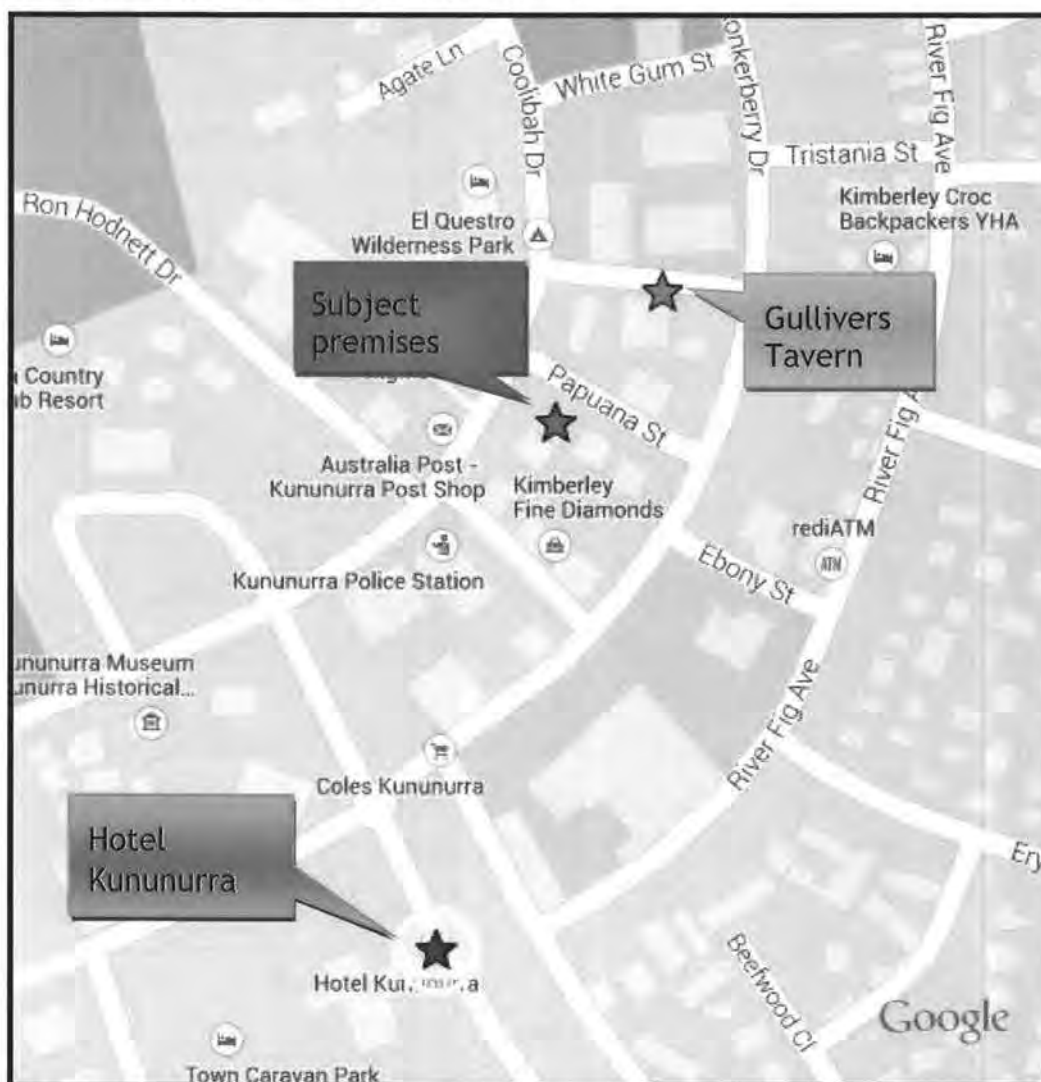
- 7.13.11. S. Kruger said, *“Yes, because it offers more of a selection. Not only in wines and beers but in cheeses and other condiments-things you can’t get in Kununurra.”*
- 7.13.12. D. Chaplin said, *“3 stores before that didn’t cope in tourist season. Yes as per above.”*
- 7.13.13. K. Fry said, *“Yes. No boutique style liquor store in the town with an extensive range.”*
- 7.13.14. M. Hennig said, *“Yes, no need for online shopping.”*
- 7.13.15. J. Hill said, *“Yes because those who don’t abuse alcohol deserve better options.”*
- 7.13.16. M. Joseph said, *“Yes. It would be nice to be able to look at a selection without the hustle and bustle you get with a drive-thru (sic).”*

8. Outlet Density

- 8.1. In this section, the applicant reports on the location, listing existing licensed premises within 3km of the premises and highlighting the diversity of the current service.
- 8.2. In February 2015 the applicant searched the website of the Department of Racing, Gaming and Liquor, for liquor licenses in the Kununurra suburb.
- 8.3. The applicant removed all surrendered, suspended and cancelled licenses.
- 8.4. The applicant then searched for liquor licences which may trade in a manner similar to a liquor store. The licence codes the applicants selected were;
 - 8.4.1. 601 Hotel;
 - 8.4.2. 602 Tavern ;
 - 8.4.3. 603 Liquor Store;
 - 8.4.4. 608 Special Facility - Wine house;
 - 8.4.5. 688 Special Facility;
 - 8.4.6. 623 Special Facility - Other;
 - 8.4.7. 622 Special Facility - Tourism; and
 - 8.4.8. 637 Special Facility
- 8.5. The applicant then used Google maps to identify which of the remaining licensed premises fall within the 3km locality radius of the subject premises.
- 8.6. The applicant then eliminated any licensed premises which do not have a dedicated packaged liquor facility.
- 8.7. As a consequence of this process the following outlets were identified that, fall within the 3km radius of the proposed liquor store, and sell packaged liquor to the public and have a dedicated packaged liquor facility.

Premises ID	Premises Type	Premises Name	Address
6020016873	Tavern	Gullivers Tavern	195 Cotton Tree Avenue KUNUNURRA WA 6743
6010016048	Hotel	Kununurra Hotel	Messmate Way KUNUNURRA WA 6743

- 8.8. Below is a map indicating the rough position of the licensed premises which have a dedicated packaged liquor facility and which fall within the 3km radius of the subject premises.



- 8.9. The subject premises is located in centre of town, in a commercial area.
- 8.10. This is consistent with the Shire's planning objectives as stated in paragraph 2.21.3 to encourage all commercial and retailing to locate in the town centre, while restricting commercial development in other areas.
- 8.11. The Liquorland store, which was closed in August 2014, was also located in the town centre, in the main shopping centre.
- 8.12. The applicant also states that the two licensed venues operate as drive through bottleshops, which is very different to the proposed Liquor Barons Kununurra which will be a modern browse style liquor store.
- 8.13. In previous determinations (Woolworths Mundaring- Decision LC23/2013 and Liquorland Mundaring- Decision LC24/2013), the licensing authority has granted licences to stores despite that fact that granting both of these licences would put three liquor stores in very close proximity to each other, and despite there being a number of objections.

- 8.14. In the decision granting both of these liquor store licences the Liquor Commission stated that it *“is persuaded that the grant of the application could not be construed as contributing to a proliferation of liquor licences in this area and that it is in the public interest to grant a licence that will cater for the requirements of consumers for liquor and related services and will be consistent with the proper development of the liquor industry in the Mundaring area”*.
- 8.15. The applicant distributed a witness questionnaire to a representative group of people in the locality to gauge the views of the local community to assist the Director.
- 8.16. When asked to consider whether Kununurra was well serviced with packaged liquor facilities and amenities in general:
- 8.16.1. E. Kong said, *“...since the closure of liquorland, competition has been quite lucrative for the two remaining stores. Prices are ridiculous choices are also very limited. Lack quality, quantity & competitive pricing.”*
- 8.16.2. L. Wain said, *“No. Since Coles liquor went my preferred (Gin) is not available.”*
- 8.16.3. M. Joseph said, *“We had 3 when (sic) first moved to town, now down to 2. So to get a 3rd liquor store with a different range of drinks would be good.”*
- 8.16.4. S. von Leonhaldi, a senior social worker said, *“Not at all- Limited range - overheated wines- no ability to browse.”*
- 8.16.5. J. Wilkinson said, *“No. Poor choice; no leisure shopping options or tastings.”*
- 8.16.6. K. Oleanik said, *“It is limited... I will drive to Darwin or mail in hard to find products.”*
- 8.16.7. J. McCarthy said, *“No. The main competitive store with widest range was closed.”*
- 8.16.8. C. Rasmussen said, *“Since the closure of Liquorland, the other 2 remaining bottleshops have not lifted their game to offer variety.”*
- 8.17. Witnesses were asked what they thought about the range of liquor products offered by the two existing drive through bottleshops and if the range was adequate for their needs:
- 8.17.1. D. Aladin said, *“No they don’t provide a huge variety of wines + special spirits.”*
- 8.17.2. G. Grange said, *“They don’t offer a good selection of wines at competitive prices.”*
- 8.17.3. K. Sloper said, *“They have common brands but if I am looking for a certain brand I would need to purchase it online.”*
- 8.17.4. L. Neugebauer said, *“I wouldn’t mind some more options e.g. international beer like Liquorland offered.”*
- 8.17.5. C. Rasmussen said, *“Not adequate, and staff have minimal knowledge of the products they have.”*

- 8.17.6. J. von Leonhaldi said, *"No- very limited range- more focused on volume not quality."*
- 8.17.7. J. Wilkinson said, *"Not good temperature control- limited choice- no confidence in quality of product."*
- 8.17.8. K. Oleanik said, *"It is a duopoly as the two establishments keep the similar prices."*
- 8.18. When witnesses were asked what they thought about the pricing of liquor products offered by the existing drive through bottleshops:
- 8.18.1. D. Aladin said, *"Very expensive."*
- 8.18.2. G. Grange said, *"Even their "specials" aren't particularly well priced."*
- 8.18.3. K. Sloper said, *"...I know many people that order online for the cost."*
- 8.18.4. C. Rasmussen said, *"Since closure of Liquorland the price (sic) are quite high."*
- 8.18.5. J. von Leonhaldi said, *"Overpriced."*
- 8.18.6. J. Wilkinson said, *"Too expensive."*
- 8.19. When witnesses were asked what they thought about the presentation, layout and comfort of the two existing drive through bottleshops:
- 8.19.1. D. Aladin said, *"Very cramped."*
- 8.19.2. K. Sloper said, *"I have only been to one. It is quite small and the layout could be better."*
- 8.19.3. C. Rasmussen said, *"designed to get people in/out fast not to build rapport."*
- 8.19.4. L. Dessert said, *"dark & uninviting."*
- 8.20. When witnesses were asked if they had been disappointed or had to return wine or beer bought from either of the two bottleshops because of quality issues, including not being cold enough:
- 8.20.1. D. Aladin said, *"Have had out of date beer from the Tav (sic) recently."*
- 8.20.2. K. Sloper said, *"Yes, some ciders weren't cold enough when purchased."*
- 8.20.3. C. Rasmussen said, *"Yes the carton must have been only stocked in the coolroom an hour prior."*
- 8.20.4. S. von Leonhaldi, a senior social worker said, *"The wine was actually warm."*
- 8.20.5. J. von Leonhaldi said, *"Tried- with no success... I personally do not drink beer but bought 4 small beers via a friend who had a car. Beer was unacceptably warm- very disappointed."*
- 8.20.6. J. Wilkinson said, *"I am a wine drinker- it was warm! An unpleasant experience."*
- 8.20.7. B. Williams said, *"Yes. Several times. We do not buy quality wine anymore as it is often damaged from handling....Yes in peak*

season cool rooms do not hold sufficient stock. Beer sometimes off or warm."

8.20.8. K. Oleanik said, *"Numerous occasions with rotten wine and beer. Heat +bad handling of the products.*

8.21. Based on the witness statements, it is clear that the proposed liquor store will cater for the requirements of consumers for packaged liquor and related services and will be consistent with the proper development of the liquor industry in the Kununurra area.

9. Wine Tasting

- 9.1. As stated in paragraph 7.5, the applicant proposes guaranteed quality control for the liquor products to be sold on the premises.
- 9.2. The applicant believes that this will be a major point of difference for the proposed Liquor Barons Kununurra as compared to the current existing packaged liquor outlets identified in paragraph 8.7.
- 9.3. On 2/12/2014, the applicant commissioned a blind wine tasting to gauge the quality of the wine sold in the two existing packaged liquor outlets.
- 9.4. The experiment was conducted at Liquor Barons Swanbourne.
- 9.5. The following wine experts were recruited to undertake the blind tasting;
 - 9.5.1. Stef Biagi who has over 10 years' experience managing fine wine stores in Perth, including 2 Liquor Barons stores.
 - 9.5.2. Paul (Ed) Edwards who has been in the wine industry for almost two decades is a regular on the Liquor Barons wine tasting panel and is a renowned wine judge, teacher and consultant.
 - 9.5.3. Erin Larkin who is a wine consultant for Lamont's fine wine store in Cottesloe, Perth and also writes wine reviews for the Western Suburbs Weekly.
 - 9.5.4. Geoff Morgan who is involved in the running of his family owned Swanbourne Cellars, established in 1989, and which has now evolved to become a Western Suburbs icon.
- 9.6. For the wine tasting, the applicant purchased 3 bottles of each of the following wines;
 - 9.6.1. 2013 Oyster Bay Pinot Noir
 - 9.6.2. 2013 Devils Lair 5th Leg red
- 9.7. The applicant purchased 2 bottles of each of the following wines;
 - 9.7.1. 2013 Amberley Secret Lane Semillon Sauvignon Blanc
 - 9.7.2. 2013 Amberley Secret Lane Sauvignon Blanc
- 9.8. The wines were purchased from each of the following packaged liquor outlets;
 - 9.8.1. Hotel Kununurra,
 - 9.8.2. Gulliver's Tavern, and
 - 9.8.3. Liquor Barons Melville.
- 9.9. The wine purchase receipts, and taster bios are presented in attachment 7.
- 9.10. This was a blind tasting. The tasters were told that some of the wine had been purchased in Kununurra and one sample had been sourced from Liquor Barons Melville, and they were asked if they could pick, due to a drop in quality, which wines had travelled from Kununurra.

- 9.11. So each taster had 10 wines to sample, of which 6 had travelled. The results are summarised in the following table. A tick indicates the taster correctly identified the wine as having travelled from Kununurra.

	Devil's Lair	Oyster Bay	Amberley Semillon / Sauv Blanc	Amberley Sauv Blanc
Steve Biagi	✓ x	✓✓	✓	✓
Ed Edwards	✓✓	✓✓	✓	x
Erin Larkin	✓ x	✓✓	x	x
Geoff Morgan	✓✓	✓ x	✓	✓

- 9.12. It can clearly be seen that the tasters correctly picked the wines that had travelled in the vast majority of cases.
- 9.13. The applicant would like to assure that the wines were treated with utmost care after purchase in Kununurra, and enroute to Perth, to ensure no change in their quality after purchase.
- 9.14. As carefully as this experiment was conducted, it is not 100% scientific, the applicant acknowledges that. However coupled with the many witness comments in respect of poor quality and heat affected wines purchased in Kununurra the applicant puts forward that this is a compelling case.
- 9.15. During Canford's site visit to Kununurra a bottle of wine was purchased from each bottleshop, and in its opinion, both wines were heat affected.
- 9.16. The applicant has investigated temperature controlled delivery systems, and proposes to guarantee its wines will not be heat affected.

10. Proposed Style of Operation

- 10.1. The applicant states that this liquor store is a new concept for the Kimberley region, offering not only a premium, quality guaranteed, range of products in a modern, convenient and secure premises, but also new social experiences including wine tasting and education.
- 10.2. The proposal is for a comfortable, convenient, modern browse style liquor store with a fashionable fit-out reflecting the heritage of the area.
- 10.3. The proposed Liquor Barons Kununurra will bring unrivalled accessibility to an extensive range of premium wines, spirits and boutique beers, with guaranteed quality control, for the residents of Kununurra as well as the thousands of visitors who visit the area each year.
- 10.4. The wide range of premium wines, spirits and beers, both local and international, offered to customers is likely to bring outstanding benefits to local business and tourism alike.
- 10.5. The liquor store will be approximately 174m², and will feature 13 cool room doors which will provide ample space for chilled liquor products for the convenience of shoppers. The cool room will be approximately 52sqm in size.
- 10.6. The store size will allow for a wide range of liquor to be displayed. A draft product range is provided (Attachment 8) which includes;
 - 10.6.1. 386 premium local and imported white wines;
 - 10.6.2. 375 premium local and imported red wines;
 - 10.6.3. A premium spirit range including 34 single malt whiskies, rums, bourbons, vodkas and gin;
 - 10.6.4. Nearly 150 premium domestic and imported beers, including boutique and craft beers;
 - 10.6.5. 58 imported liqueurs ranging from Italian Limoncello to Croatian liqueurs made from pinenuts;
 - 10.6.6. 20 quality Australian brandies and cognacs;
 - 10.6.7. 15 French champagnes;
 - 10.6.8. 69 Australian and imported sparkling wines; and
 - 10.6.9. 20 boutique & imported ciders
- 10.7. By way of ancillary products and services the liquor store will offer the following:
 - 10.7.1. A range of cool drinks, water and juice;
 - 10.7.2. Ice;
 - 10.7.3. Wine stoppers and other wine accessories including quality glasses, wine magazines and books for customers to broaden their wine knowledge.
 - 10.7.4. Gourmet cheeses, infused olive oils, olives, dukkah & balsamic vinegar, sourced from Margaret River;

10.7.5. Local pickles, chutneys & jams as part of the liquor store's Gourmet Premium Plan and support for local producers.

10.8. The image below shows how the interior of the proposed Liquor Barons Kununurra might look.



10.9. As shown in the image below, the products will be well arranged and accessible, with prices clearly marked on all liquor products.



10.10. The Liquor Barons Kununurra store is designed to provide a quality service to the community with improved shopping standards to enhance people's options and choices when selecting wines for their leisure time.

10.11. The staff members will be well presented in neat uniforms with name badges.

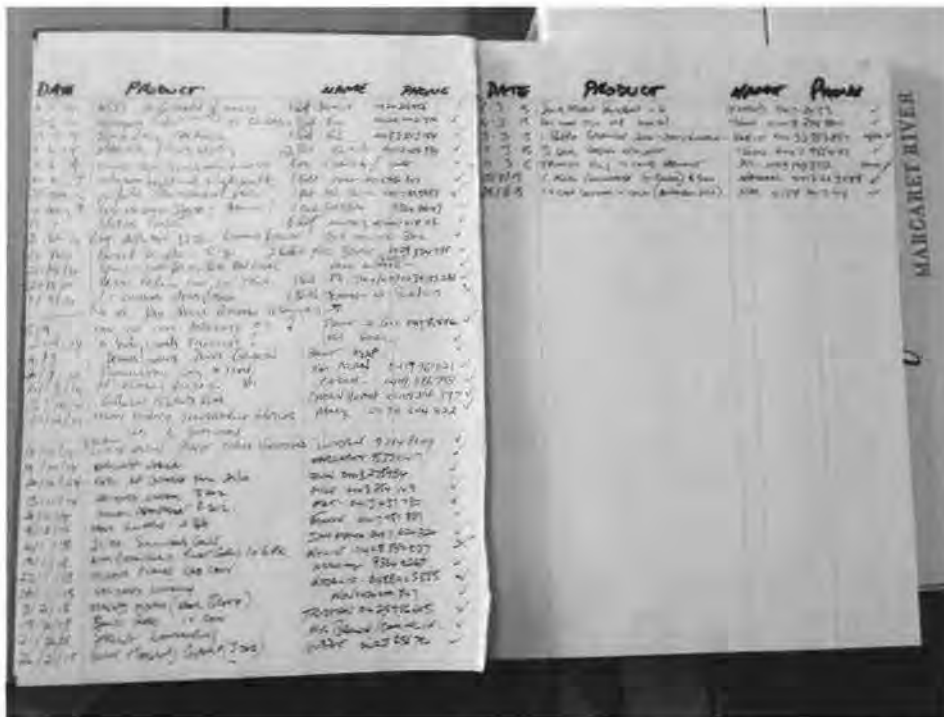
- 10.12. As required by the Liquor Control Act, all staff will be trained in the responsible service of alcohol.
- 10.13. Staff will be chosen based on the following criteria;
 - 10.13.1. Must have police clearance;
 - 10.13.2. Preferably they should live locally;
 - 10.13.3. Clean tidy appearance;
 - 10.13.4. Must have some experience in the liquor industry or in retail;
 - 10.13.5. Preferably should have completed a wine appreciation course (if not they will have to complete one at commencement of employment),
 - 10.13.6. Must understand and be prepared to implement the “Staff store security manual”,
 - 10.13.7. Ability to work responsibly and efficiently; and
 - 10.13.8. Must have a positive and friendly disposition;
- 10.14. Staff members will undergo training and the applicants intend to conduct regular wine tastings with the staff to further educate them.
- 10.15. The applicants also intend to establish a wine club (Attachment 9) at the proposed premises.
- 10.16. The wine club will be open to all members of the Kimberley community who wish to join a new, innovative club for wine appreciation and to learn more about the many wines and products which will be available at the proposed Liquor Barons Kununurra store.
- 10.17. The applicants intend to hold fortnightly seminars, and have highly qualified wine makers and their representatives host insightful evenings featuring structured wine tasting and wine education.



- 10.18. The applicants state that they have the support of local wine makers for their wine club. At the time of writing these submissions the following organisations (Attachment 10) have committed to providing

structured tastings at the proposed store, by either sending a representative or wine maker to Kununurra or via a video link.

- 10.18.1. Grape Expectations Vintners;
 - 10.18.2. Delegat Wines Australia;
 - 10.18.3. Cassella Family Brands;
 - 10.18.4. Dave Mullen Wines and Rosily Vineyards;
 - 10.18.5. Accolade Wines;
 - 10.18.6. Australian Vintage Ltd
- 10.19. Another unique feature of the proposed Liquor Barons Kununurra liquor store is the special orders book which the applicant states *“will be a first for the town.”* The special orders book will ensure that customers have access to their favourite brands. Customers will be able to request a particular liquor item and the liquor store will source it for them.
- 10.20. Mr. Tony Martin has offered this service for some time at his Melville liquor store, and it is very popular. Witness evidence presented with these submissions shows that this service is not available in Kununurra. A sample page of the Melville special orders book is shown in the image below.



- 10.21. The applicant intends to fully comply with the Director’s Policy on security at licensed premises. The store will feature an extensive CCTV system for the convenience and safety of customers and neighbours (Attachment 11).
- 10.22. The CCTV system will be in place and operational at all times covering the internal access/egress of the premises.
- 10.23. The applicant states that staff members will be fully trained in the operation of the system.
- 10.24. The features of the system include:

- 10.23.1. 5 high tech cameras with state of the art clarity for identifying offenders and reporting to police.
 - 10.23.2. The cameras will be installed by experienced, licensed and qualified security installers.
 - 10.23.3. Total infra-red cameras which can record perfectly in pitch black darkness thereby ensuring 24/7 surveillance.
 - 10.23.4. A 2 terabyte recording module allowing for 14 days continuous recording.
 - 10.23.5. The system is able to produce very high resolution still photos which provide police with high quality images to identify offenders.
 - 10.23.6. Recordings can be viewed live at the site or remotely via computer, smart phone, or tablet. Also while watching remotely, you can rewind and watch again.
 - 10.23.7. Cameras activate on motion so that when motion activates a camera out of hours it can trigger an alarm on the manager's phone waking him up to observe the store. This will enable super quick response to prevent, control and deter crime.
- 10.25. The applicant further states that images recorded via the CCTV system will be retained for 28 days and will be made available for viewing or removal by the police or other persons authorised by the Director.
- 10.26. The applicant also intends to hire a security staff member who will be stationed at the door for an initial 6 month period from 12noon-8pm daily and then as required.
- 10.27. A great deal of thought and discussion has gone into the layout and design of this proposed liquor store, and also into the proposed manner of trade.
- 10.28. The proposed store has been designed by one of the directors of the applicant company, Mr Tony Martin, using his extensive experience in the industry to design out crime.
- 10.29. The applicant states that the layout of the proposed Liquor Barons Kununurra store has been carefully designed to reduce the potential for petty crime, using the principles of CPTED (Crime Prevention Through Environmental Design).
- 10.30. Below are some of the strategies volunteered by the applicant to ensure that this proposed liquor store fits seamlessly into the local community, and provides its service with the minimum potential for harm and ill-health.
- 10.29.1. The store has been designed with clear lines of sight to all customer areas.
 - 10.29.2. The interior and exterior of the store will be brightly lit.
 - 10.29.3. Generally the layout of the liquor store has been planned to avoid blind spots.
 - 10.29.4. The point of sale and service counter is strategically positioned to allow easy monitoring of the whole liquor store.

- 10.29.5. The store has been designed with only one way in and one way out.
- 10.29.6. There will be a buzzer on the front door to alert staff to customers entering the store.
- 10.29.7. Large groups will not be allowed entry all at once, but they will be stopped before they enter.
- 10.29.8. Spirits are to be kept only behind the service counter, these are high value items and a target for thieves.
- 10.29.9. Bottles of wine and spirits with an RRP of \$100 or more will be kept in locked cabinets, with access only by staff upon specific request.
- 10.29.10. As shown in the image below, the proposed liquor store will feature a controlled entry and exit point.

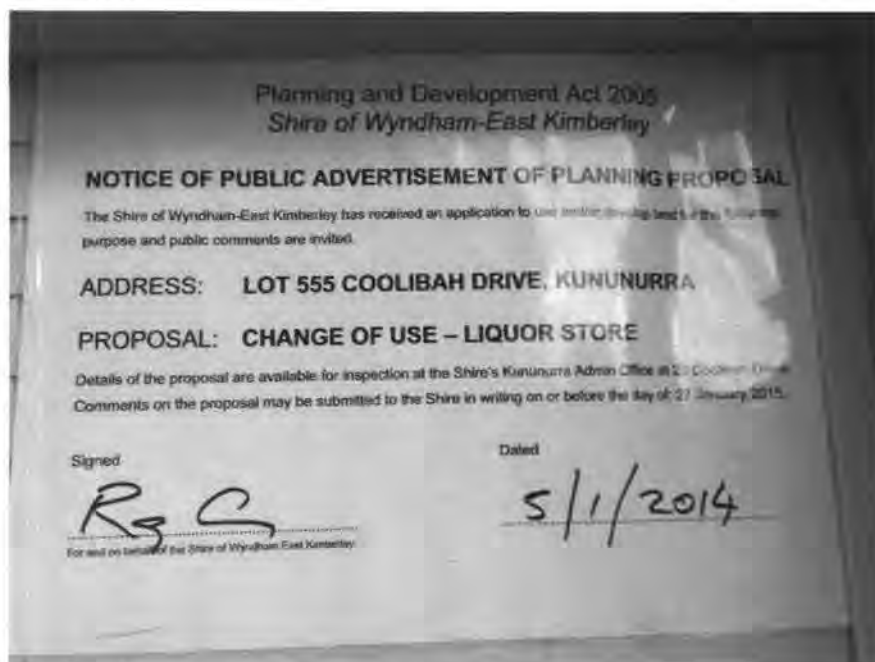


- 10.31. The applicant has also provided a staff store security manual (Attachment 12) that outlines the store's security measures as well as providing practical guidelines for the staff on how to deal with any security issue that may arise.
- 10.32. The applicants also state that they are considering using anti-loitering devices such as high pitched mosquito devices to deter loitering. Such devices have been used by the local council and the local Tuckerbox supermarket according to a news article available at <http://www.dailytelegraph.com.au/news/buzz-beats-graffiti-vandals/story-fni0cx4q-1226651709640?nk=90116ab9bbf5bb93e0a06e59e8a4e23a>
- 10.33. Witnesses were asked if they would be inconvenienced by having this proposed liquor store available in the locality:

- 10.32.1. G. Grange said, *"Yes, definitely. It would be lovely to have educated staff and a comprehensive range.... It would be nice to have this more upmarket outlet- wine tasting, education and gourmet nibbles would be great."*
- 10.32.2. B. Peterson said, *"Yes, possibly won't have to shop online and wait for delivery."*
- 10.32.3. M. Joseph said, *"Yes. A pleasant change to be able to peruse the range and talk."*
- 10.32.4. J. McCarthy said, *"Yes, quality & range is always appreciated when living remote."*
- 10.32.5. C. Rasmussen said, *"Yes. We need more variety"*
- 10.32.6. K. Sloper said, *"Yes, there will be more choices and a better layout would allow people more time to consider their choices. I feel like I have to rush at the moment as the shop is so cramped."*
- 10.32.7. S. von Leonhaldi, a senior social worker said, *"Yes I would- Having a quality wine cellars to select quality wines with the help of skilled & knowledgeable sales personnel. Attending a dinner party with a good wine for the host- fantastic."*
- 10.32.8. J. von Leonhaldi said, *"Yes at long last- a browse style cellars comparable with retail outlets in other parts of the state/country."*
- 10.32.9. R. Duxbury said, *"Yes. I want variety, convenience at fair prices. I (sic) keen to shop at a liquor store where I can talk to friendly staff who know what they are talking about."*
- 10.32.10. D. Chaplin said, *"Yes- I can discuss & purchase quality products, have the choice & not rely on on-line services."*
- 10.32.11. Courtney said, *"Yes. Another venue will allow people to browse with time, not rushed through."*
- 10.32.12. C. Hill said, *"Yes. It's good to have more options. I like the idea of wine & cheese even though it's not my thing, it's a fantastic idea and option. I like the proposed layout."*
- 10.34. The applicant will also display messages and posters from the Drug and Alcohol Office prominently within the proposed liquor store. These are focussed on responsible service of alcohol, and evidence the applicant's commitment to this. These posters may include some or all of the following;
- 10.33.1. "If You Are Asked To Leave This Venue";
- 10.33.2. "It Is Against The Law to sell or supply liquor to a drunk person";
- 10.33.3. "It Is Against The Law to help a drunk person obtain or consume alcohol on licensed or regulated premises";
- 10.33.4. "It is against the law for anyone to sell or supply alcohol to a person under 18 years of age"; and
- 10.33.5. "It is against the law to show false or misleading ID".

11. Local Government Consultation

- 11.1. In December 2014, the Shire of Wyndham East Kimberley posted a notification advising adjoining land owners of the proposed change of use of the premises to liquor store, and offering them the opportunity to comment directly to the Shire
- 11.2. The adjoining land owners were given 21 days from 15th December 2014 to 5th January 2015 to lodge submissions on the proposal with the council.
- 11.3. On January 7th 2015, the Shire advised that there were 4 submissions received from the adjoining landowners and, in the opinion of the Shire planning officer, there were no substantial issues raised. Consequently the applicant was not asked to respond to any of the submissions.
- 11.4. In January 2015, the Shire of Wyndham East Kimberley placed a “notice of public advertisement” for the proposed Kununurra Cellars liquor store on the subject premises, “for the purpose of community visibility and input”.
- 11.5. The public advertisement consisted of a signage erected at the site for 21 days from 05/01/15 - 27/01/15. The notice was also advertised in the Kimberley Echo newspaper.
- 11.6. Attachment 13 contains a copy of the Echo notice, and a map showing the adjoining landowners who received Shire notification (marked with an “x”).



- 11.7. On January 28th 2015, the Shire advised that with regard to the submissions, “*Some objections were received, those noted a general disinclination towards another (3rd) liquor outlet in the town*”. There were no objections on planning grounds, no parking or zoning issues.
- 11.8. The proposal was put forward during the Shire council meeting held on 24/03/15.
- 11.9. During the meeting the application was approved by a unanimous vote of 7 to 0.

12. Background and Experience of the Applicant

- 12.1. The business will be wholly Western Australian owned and operated by Mr. Tony Martin and Mr. Adam Quinn, directors of the applicant company.
- 12.2. Tony has a long and excellent track record in liquor stores. He has had 5 liquor licenses over a 27 year career and has an unblemished record with the Department of Racing, Gaming & Liquor.
- 12.3. Tony is the current owner of Liquor Barons Melville, and has sat on the Board of the Liquor Barons Group for two separate terms.
- 12.4. Tony has built an excellent reputation in the liquor industry in WA and is considered a businessman of good standing, honest, reliable and professional as evidenced in the reference letter given by Mr. Lou Spagnolo, Chairman Liquor Barons Board & President, Liquor Stores Association (WA) (Attachment 14)
- 12.5. The applicant distributed a witness questionnaire to customers of the Melville Liquor Barons store in order to gauge their views on Tony Martin's ability to operate and manage a liquor store. (Attachment 15)
- 12.6. Witnesses were asked to comment on general aspects of the store (range of products, pricing, presentation, layout, comfort, security and customer service) as well as give their impressions on Tony Martin's ability to manage the store and sell liquor responsibly.
- 12.7. The main themes from the witness responses can be summarised as follows:
 - 12.7.1. The witnesses think that Liquor Barons Melville is well designed for comfort, safety and security, has a diverse product range, is competitive in pricing, honours specials and is generally well run.
 - 12.7.2. The witnesses think that Tony Martin is an efficient, competent, responsible and honest business operator. They say he is also very knowledgeable about the products he sells.
 - 12.7.3. The witnesses think that the customer service at Liquor Barons Melville is excellent and this is a reflection of Tony's friendly nature and good management skills.
- 12.8. Should this licence be granted, Tony intends to rent accommodation in Kununurra for a year to enable him to co-manage the store with Adam thereby bringing his wealth of experience and expertise in managing liquor stores to ensure the smooth running of the new business.
- 12.9. Thereafter, Tony intends to divide his time between managing the Kununurra store and the Melville store, through a rotational system of two weeks in Kununurra and two weeks in Melville. During this period, Adam will be responsible for managing the proposed store with the help of Tony's experienced manager from the Melville Liquor Barons store who will be filling in for Tony in his two weeks off.
- 12.10. Adam Quinn is a local resident of Kununurra and has over 25 years' experience working in the corrective services industry, including

working as a senior security officer at Banksia Hill Youth Detention Centre. Attachment 16 is a copy of Adam's resume.

12.11. Adam's experience in the corrective services industry has provided him with the knowledge and experience necessary to ensure safety and security, respond and contain incidents, as well as deal with emergency situations.

12.12. Attached to these submissions is a copy of an email from Brett McMerrin, Assistant Commissioner, Department of Corrective Services (Attachment 17). In his email, Mr. McMerrin made the following comment about Mr. Adam Quinn:

12.12.1. *"I have found Mr. Quinn to have strong leadership and management skills in particular his ability to manage prisoners from remote regional areas some with low cognitive functioning and behavior issues."*

13. Section 38(4)(a) Harm or Ill-health

- 13.1. Section 38(4)(a) of the Liquor Control Act (1988) asks the applicant to consider “the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor.”
- 13.2. In a strategic report prepared by the Drug and Alcohol Office (Drug and Alcohol Interagency Strategic Framework for Western Australia 2011-2015), it is stated that some population groups experience greater impacts from alcohol than others and therefore require additional support. These priority population groups include:
 - 13.2.1. Aboriginal people and communities;
 - 13.2.2. children and young people;
 - 13.2.3. people with co-occurring mental health and alcohol and other drug problems;
 - 13.2.4. people in rural and remote areas;
 - 13.2.5. families, including alcohol and other drug using parents; and
 - 13.2.6. offenders.
- 13.3. The applicant has considered the growth in both commercial property and population in some detail in section 4 of these submissions. It was concluded that the locality will have a growing commercial property and population with a growing need for services in general, including for packaged liquor services.
- 13.4. In any case, the applicant has a detailed harm minimisation plan in place, which will help in minimising any potential for undue harm or ill-health in the locality, and an excellent track record as a licensee.
- 13.5. Dr. Janet Woollard, Chairman of the Parliamentary Standing Committee on Alcohol and Health stated in her report entitled “Alcohol: Reducing the Harm and Curbing the Culture of Excess” said on page xi;
 - 13.5.1. “Alcohol has been a part of community life for many years. Most Western Australians, most of the time, consume alcohol in a responsible manner.”
- 13.6. It therefore follows that the majority of people in this locality enjoy alcohol responsibly.
- 13.7. In August 2014, the applicant wrote to the Western Australia police to request “Monthly totals for alcohol related offences” in “Kununurra” from “February 2011 - September 2014” under the Freedom of Information Act 1992.
- 13.8. The applicant wanted to determine whether the closure of the Liquorland store in July 2014 had led to an increase or decrease in the incidences of alcohol related offences in Kununurra.
- 13.9. Senior police officer Wendy Hills responded that “I have decided to refuse access to those documents.”
- 13.10. A Notice of Decision sent to the applicant (Attachment 18) stated a search was undertaken with applicable WA police facilities and databases including Business Statistics, the Kununurra Police Station,

Liquor Enforcement Unit and WA Police Incident Management System and no records were found “*containing the requested information*” and advising “*if you wish to make a direct application to Liquor Enforcement District Office, they may be able to compile the information requested.*”

- 13.11. Therefore the applicant has instead considered the alcohol related crime data for Western Australia for 2011.
- 13.12. In August 2013, the applicant investigated the incidence of alcohol related offences in 2011, within the locality and other selected suburbs in the Kimberley region as recorded by the WA Police.
- 13.13. The applicant then conducted a search of the ABS Census website for the population in each suburb as recorded in 2011.
- 13.14. Using the above figures, the applicant calculated the number of alcohol related offences per 1,000 of population in 2011 in the locality and the selected suburbs.
- 13.15. The following is the method used to obtain the number of alcohol related offences per 1,000 of population in 2011 in the locality and each selected suburb.

$$\frac{\text{number of reported alcohol related offences in 2011}}{\text{Population in 2011}} \times 1,000$$

- 13.16. As a result of the above calculation, below is a table showing the level of alcohol related offences in the locality compared to other selected suburbs.

Suburb	Number of reported alcohol related offences per 1,000 population in 2011
Kununurra	50.1
Derby	58.9
Halls Creek	88.7
Broome	93.3
Wyndham	115.6
Fitzroy Crossing	215.9

- 13.17. The table above shows that the locality had the lowest number of alcohol related reported incidents at 50.1 per thousand persons, compared with other selected suburbs.
- 13.18. The conclusion here is that the locality has a relatively lower incidence of alcohol related crime when compared with what appears to be generally accepted in other areas of the Kimberley region.
- 13.19. In the questionnaire, when witnesses were asked to give their opinions on whether there were any people or groups of people in the locality who would be at risk of increased and undue harm as a result of the granting of this application:

13.19.1. D. Chaplin said, “*No- As long as RSA is adhered to, no issue. We had 3 outlets prior that made no difference to community.*”

- 13.19.2. K-M Outwaithe said, *“Obviously there is a drinking culture in KNX (sic) but people who are addicted are going to find alcohol regardless.”*
- 13.19.3. C. Hill said, *“No. With security at the door and restrictions in place, I don’t think anything bad can come of it.”*
- 13.19.4. C. Rasmussen said, *“No as we have a restricted limit on what we can buy anyway, so in theory will not put any more alcohol on the streets.”*
- 13.19.5. S. Petherick said, *“No, these types of people go to the drive through for in personal (sic) and quick service.”*
- 13.19.6. J. McCarthy said, *“No. It will make absolutely no difference to those who are already negatively influenced.”*
- 13.19.7. B. Williams said, *“No. Those people already can purchase VB + Bundy from drive throughs.”*
- 13.19.8. B. Langford said, *“No. We have restrictions.”*

14. Section 38(4)(b) - Impact on Amenity

- 14.1. The proposed liquor store will be located in a commercial precinct where there are other retail stores.
- 14.2. The applicant states that there will be no consumption of alcohol on the proposed premises therefore it is unlikely that the proposed liquor store will negatively impact the amenity of the locality.
- 14.3. The proposed liquor store will benefit the amenity of the locality through offering the following services;
 - 14.3.1. The applicant proposes a modern browse style liquor store that will offer residents and tourists greater choice and variety, as well as new social experiences including wine tasting and education.
 - 14.3.2. A safe, secure and inviting place for local residents and tourists to shop for packaged liquor products, in particular those who do not wish to be rushed and would prefer to browse in comfort;
 - 14.3.3. Quality guaranteed liquor products and accessibility to a wide range of premium product that contributes positively to the entertainment and recreational pursuits of residents and tourists.
 - 14.3.4. Creating new jobs in the locality;
 - 14.3.5. Support for local sporting clubs and appropriate fund raising activities. This will include a confirmed sponsorship of a local football team and the purchasing of Swags for the MG Corporation, to assist elders taking youth at risk to "Back to Country", as a means to find their identity and belonging. This was requested by Mr Teddy Carlton, MG elder during the applicant's community stakeholder consultation. Teddy requested the applicant work closely with the Mirawong Patrol should it observe any anti-social problems within the liquor store premises.
- 14.4. The proposed liquor store will contribute positively to the streetscape and atmosphere of the locality by providing a modern and well-presented premises. It will take a long disused premises, and transform it from an eye-saw into a modern retail facility. It will change a magnet for petty crime into eyes on the street, and make the immediate vicinity safer for the public.
- 14.5. The planning approval issued by the Shire confirms that the premises will operate within accepted parameters for traffic, noise and parking.
- 14.6. In the questionnaire, when witnesses were asked in what ways they consider this proposed liquor store will impact the amenity of the community, whether positive or negative, the local respondents had the following comments;
 - 14.6.1. D. Aladin said, *"It won't. It will give more variety. If staff follow their RSA no one will have problems."*

- 14.6.2. G. Grange said, *"I don't think it will have a negative aspect as it seems to be pitching above the kind of outlet that would attract the problematic members of the community."*
- 14.6.3. J. McCarthy said, *"It will provide the community members who do the right thing with a quality selection of alcohol to enjoy."*
- 14.6.4. C. Rasmussen said, *"Will provide options, better service, and employment possibilities. (WIN/WIN)."*
- 14.6.5. L. Dessert said, *"Give people more choice."*

15. Section 38(4)(c) - Offence, Annoyance, Disturbance or Inconvenience

- 15.1. This is an application for a liquor store licence, there will therefore be no consumption on premises, apart from product sampling.
- 15.2. The site is zoned for commercial use and has been approved by the Shire for a liquor store, and whether or not this application is granted a commercial development will remain on this site.
- 15.3. The site is well positioned to be conveniently located for its customer base.
- 15.4. The store will only operate during prescribed trading hours.
- 15.5. The site is in the town centre, on an active frontage and adjoins a lighted footpath providing opportunity for public passive surveillance and decreasing risks to people who work in neighboring stores.
- 15.6. The applicant has stated in sections 7 and 11 of these submissions that the motivation for this application is to offer a new upmarket liquor store that focuses on outstanding service and high quality products.
- 15.7. The applicant postulates that this style of liquor store which focuses on quality not quantity will attract the burgeoning middle class who are most likely to have modern tastes and preferences for good quality liquor products. The liquor store will not be attractive to those looking for quick, cheap liquor.
- 15.8. The applicant has also stated in section 7 of these submissions that the proposed liquor store is intended to cater for the requirements of tourist, particularly "grey explorers", "dedicated discoverers" and business travelers who are more focused on the premium end of the market.
- 15.9. The applicant also proposes a robust store security plan. Attachment 14 outlines strategies to mitigate theft including a high tech surveillance system and a store layout incorporating CPTED design strategies.
- 15.10. The applicant does not expect any undue offence, annoyance, disturbance or inconvenience will be caused to people who live or work in the locality beyond what would be expected from the operation of a retail facility, which includes a liquor store.
- 15.11. This is borne out by witness comments below.
- 15.12. The witnesses were asked to comment on the potential for annoyance, offence, disturbance or inconvenience that the granting of this licence may cause to people who live, work or visit the locality.
 - 15.12.1. K. Cooledge, Social Worker and Director of Dept. of Child Protection said, *"I don't believe this will create any further disruption in the local community."*
 - 15.12.2. D. Aladin said, *"The same as you would for the other 2 Alcohol outlets....if they know your outlet won't serve problem people they won't come back."*
 - 15.12.3. G. Grange said, *"Its far enough away from the main shopping area so it wouldn't be likely to attract a negative element."*

- 15.12.4. M. Ausburn said, *“Nil- the target market that will be reached will not cause problems.”*
 - 15.12.5. J. Pearce said, *“No difference than the present situation. There is always going to be a minority that spoils it for the rest of us .”*
 - 15.12.6. L. Dessert said, *“Would be none.”*
 - 15.12.7. K. Oleanik said, *“It shouldn’t impact as we have strict rules and RSA in place this should help and education goes a long way.”*
- 15.13. To minimise the potential for offence and annoyance, the applicant has drafted a Harm Minimisation Plan that addresses potential issues such as staff training, responsible service of alcohol and logging of complaints.

16. Section 5(1)(a) of the Liquor Control Act (1988)

- 16.1. Section 5(1)(a) states that a primary object of the Act is;
 - 16.1.1. *“to regulate the sale, supply and consumption of liquor”*;
- 16.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 16.3. To regulate means;
 - 16.3.1. *“to control or direct according to rule, principle, or law”*
or
 - 16.3.2. *“to put or maintain in order”*
- 16.4. It does not mean to restrict or to reduce.
- 16.5. There may be some circumstances where a restriction or a reduction is warranted, but the word “regulate” implies more flexibility than either “restrict” or “reduce”.
- 16.6. It is possible to “regulate” and to “increase” at the same time.
- 16.7. Therefore this primary object should not, of itself, prevent this application from being granted.
- 16.8. It is possible to properly regulate the sale, supply and consumption of liquor and grant this application.
- 16.9. The 2013 review of the Liquor Control Act concluded that between 2008/09 and 2012/13 the total number of liquor licences in WA per capita dropped. At a time of increasing population it is quite clear that there will be increased demand for liquor and related services. Proper regulation of the industry would allow for growth in licensed premises in a responsible manner, to cater to increased demand.
- 16.10. If there is not a controlled growth, then more people will try to satisfy their liquor requirements in the same number of venues, leading to overcrowding and queueing, recognised sources of harm in licensed premises.
- 16.11. On 16th September 2011 a liquor store licence was granted to the Mount Barker Liquor Store (Decision A219143). The application was successful, despite a number of objections, in large part, because the Director found that there was a section of the public in the locality who had a reasonable requirement for a packaged liquor service from a liquor store and not from a tavern or hotel, and that such a service was lacking in Mount Barker at that time.
- 16.12. In its decision in the above determination, the Liquor Commission stated on page 8:
- 16.13. *“The use and development of the proposed liquor store in Mount Barker is consistent with object 5(2)(a) of the Act , in that the licensing authority is to have regard to facilitating “...the use and development of licensed facilities...reflecting the diversity of the requirements of consumers in the State.”*
- 16.14. Similarly, in its decision to grant a liquor store licence for the Kojonup Liquor Store (Decision A31180) , the Liquor Commission considered

consumer requirements for packaged liquor services and stated on page 2 :

“It was also established that a significant amount of packaged liquor is purchased outside the affected area (over 50 per cent) because of limited choice, limited access and uncompetitive prices. In my view, the public, therefore, is put to substantial inconvenience in having to travel outside the affected area in order to satisfy their packaged liquor requirements.”

17. Section 5(1)(b) of the Liquor Control Act (1988)

- 17.1. Section 5(1)(b) states that a primary object of the Act is;
- 17.1.1. *“to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor”;*
- 17.2. Being one of three primary objects means that it is of equal importance to the other two primary objects of the Act.
- 17.3. In its decision granting a liquor store licence to Woolworths Warnbro the Liquor Commission noted;
40. The potential for harm or ill-health is a powerful public interest consideration when determining an application (refer *Lily Creek supra*). Consequently, it is relevant for the licensing authority to consider the level of alcohol-related harm, due to the use of liquor, which is likely to result from the grant of the application. As Wheeler J stated in *Executive Director of Public Health v Lily Creek International & Ors [2001] WASCA 410*:
- “This does not mean that only the increased harm which may result from the specific premises in question is to be considered; rather it seems to me that must necessarily be assessed against any existing harm or ill health so as to assess the overall level which is likely to result if a particular application is granted. Where, as occurs in probably the majority of cases, the existing level of alcohol related harm is no greater than that which appears to be commonly accepted in the community, the distinction is probably not significant.”
41. Also, as observed by Ipp J (in *Lily Creek supra*) it is significant that the primary object in section 5(1)(b) is to “minimize” harm or ill-health, not to prevent harm or ill-health absolutely.
- 17.4. Similarly the Director of Liquor Licensing has talked about “undue harm or ill-health” in his decisions, e.g. Leeming IGA Plus Liquor and Glenowen Cellar Door.
- 17.5. In this application, therefore, the applicant is not required to show that no harm whatsoever may occur if this application is granted, only that the applicant will do all that is reasonable to minimise harm and ill-health that could potentially occur if this application is granted, and that any potential for harm or ill-health is minimised, and is not “undue”.
- 17.6. This then must be weighed, in equal measure, against the benefits that will accrue to the local community through having a professional browse packaged liquor offer available to them in the locality.
- 17.7. On the 27th April 2011 a liquor store licence was granted to Progressive Supa IGA Halls Head (Decision A218253). In his decision, the Director said
- “In determining this application, the interventions must be weighed against the witness petitions and witness questionnaires submitted by the applicant in support of the application. The evidence submitted by the interveners indicates that existing levels of harm in the Mandurah area are higher than that commonly found in the community.*

However, from the evidence it cannot be concluded that the grant of the licence will add significantly to that level of harm” and

“In weighing and balancing the competing considerations, I find that, on the balance of probabilities, it is in the public interest that the application by Progressive Trading Pty Ltd for a liquor store licence be granted”.

- 17.8. In this application very strong and positive objective evidence has been presented. The application has been publicised very widely in the local community. In a town the size of Kununurra it is hard to imagine that anyone would be unaware of this application.
- 17.9. Out of more than 100 written responses, no-one called for the application to be refused, and only a very few raised concerns. Most of the members of the local community believed that a combination of the liquor restrictions currently in place, together with the careful design of the liquor store, and the combined experience of the applicant, would ensure that harm and ill-health are minimised.
- 17.10. Witnesses were asked if there are any people or any groups of people in the locality who would be at risk of increased and undue harm as a result of granting this application:
- 17.10.1. K. Coledge, Social Worker and Director of Dept. of Child Protection, said, *“I don't believe they are at any more risk than is current.*
- 17.10.2. J. Wilkinson said, *“No -additional risks...opportunity for improved education about responsible drinking.”*
- 17.10.3. C. Hill said, *“No, with security at the door and restrictions in place, I don't think anything bad can come of it.”*
- 17.10.4. J. McCarthy said, *“No. It will make absolutely no difference to those who are already negatively influenced.”*

18. Section 5(1)(c) of the Liquor Control Act (1988)

- 18.1. Section 5(1)(c) states that a primary object of the Act is;
- 18.1.1. *“to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State”;*
- 18.2. As stated in the introduction this object was elevated to the status of primary object in the May 2007 changes to the Liquor Control Act (1988).
- 18.3. Being a primary object means that it is of equal importance to the other two primary objects of the Act.
- 18.4. In other words it is just as important for the Director to cater for the requirements of consumers as stated above, as it is to minimize the potential for harm or ill-health due to the use of liquor.
- 18.5. In the end it is a weighing and balancing of these equal objects which will determine whether a liquor licence should be granted or not.
- 18.6. As stated in section 8 of these submissions, the proposed Liquor Barons Kununurra will be a modern browse style liquor store, therefore will have different features to the two existing packaged liquor outlets in the locality which operate as drive through bottleshops.
- 18.7. In its decision to grant a liquor store licence for Mount Barker Liquor Store, the Liquor Commission stated on page 8:
- The proposed liquor store will have different features to the bottle shops at the Plantagenet and Mount Barker hotels, and the opportunity to purchase liquor from a liquor store is consistent with object 5(1)(c) of the Act; namely, the proper development of the liquor industry in the state. The use and development of the proposed liquor store in Mount Barker is consistent with object 5(2)(a) of the act in that the licensing authority is to have regard for facilitating “... the use and development of licensed facilities ...reflecting the diversity of the requirement of consumers in the State.”*
- 18.8. When witnesses were asked if they believe that the style of liquor store proposed is required in the locality, 71% of respondents said they believed it was. Only 19% said that they would not be using it, if the licence were granted.
- 18.9. This result coupled with the quotes below, extracted from the witness questionnaires, show that the proposed liquor store will cater to the requirements of people in the locality, for packaged liquor services.
- 18.10. When asked whether they would be inconvenienced by having this proposed liquor store available to them in the locality, witnesses responded as follows;
- 18.10.1. Ryan Klause said, *“Yes, because I like good beers and I can’t get them here”;*
- 18.10.2. Sean Bonycoat said, *“Very big yes. I like my boutique beers that you can’t obtain through the current stores”;*

- 18.10.3. Carly Hill said, *“Yes, I like the idea of wine and cheese”*;
- 18.10.4. Brad Williams said, *“Yes, (I) will (be able to) avoid busy drive throughs + avoid buying online”*;
- 18.10.5. Kristine Oleinik said, *“Yes, this would be ideal, to have this style introduced”*;
- 18.10.6. Janice Clark said, *“Yes, I would feel comfortable entering the store”*;
- 18.10.7. Nicky Wood said, *“Yes, it would be convenient, because I would have more to choose from”*;
- 18.10.8. Jessica Kerr said, *“Yes, as I feel the current selection of wines is not sufficient”*;
- 18.10.9. Renee Duxbury said, *“Yes, I want variety, convenience at fair prices. I (am) keen to shop at a liquor store where I can talk to friendly staff who know what they are talking about”*;
- 18.10.10. Brian Fields said, *“Yes, I would like more range of Bourbons and Vodkas, (and) cocktail drinks for parties and when friends come over”*;
- 18.10.11. Katie-mary Outhwaite said, *“(It will be) convenient to have options.....it will.....let people browse instead of feel (sic) rushed”*;
- 18.10.12. Selbey Kruger said, *“Yes, because it would mean I would have access to alcohol I would otherwise have to purchase online”*;
- 18.10.13. Shannon Murphy said, *“Yes, (I am) interested in premium beers for something different”*;
- 18.10.14. Guillaume Tollec said, *“Yes, it will be convenient to browse in the shop without being rushed to buy something due to having a car in line at the drive through”*;
- 18.10.15. Stephen Fry said, *“Yes, it provides choice, at the moment we don't have (choice)”*;
- 18.10.16. Darryl Pearce said, *“Yes - the price competition and some availability of wines and spirits at the top end of the scale, instead of overpriced mid-ranged junk”*;
- 18.10.17. Phil Flick said, *“Yes, there will be no need to access alcohol from out of town”*;
- 18.10.18. Alysha Brown said, *“(I) wouldn't have to buy online”*;
- 18.11. As stated in paragraph 5.25, Kununurra is the gateway to WA for tourists and the proposed Liquor Barons Kununurra store will showcase WA produce for visitors and local customers to experience
- 18.12. Therefore, in relation to section 5(1)(c) of the Act, the applicant states that the proposed liquor store will cater to a gap in Kununurra for packaged liquor and related services. The proposed liquor store will responsibly develop the hospitality and liquor industry in the locality by creating choice for consumers in the area, both local community members and tourists.

19. Objective Public Interest Evidence

- 19.1. In this section the applicant reports on how its objective public interest evidence was obtained and collated. This section details how the applicant has canvassed all opinion, in order to present a fair picture of local opinion to this application.
- 19.2. In the determination on 7/11/2014, of the matter for the review of the decision of the delegate of the Director of Liquor Licensing to refuse an application for a liquor store license for Liquor Barons Silver Sands (reference LC 38/2014) the application was dismissed and the commission found that “there is insufficient evidence that there is any real requirement of consumers for the proposed liquor store.”
- 19.3. As state in paragraph 18.8, the applicant has provided very strong and positive objective evidence and has attached 103 witness questionnaires received from members of the local community.
- 19.4. In the questionnaire, witnesses were asked if they believe the style of the liquor store proposed is required in the locality:
- 19.4.1. B. Nielson, who owns the café next door to the proposed premises said, *“I believe it is Yes. The applicants have clearly identified the market that they would like to attract.”*
- 19.4.2. E. Kong said, *“Most definitely. There is a need for quality wine & education. There is definitely a niche market for wine & food connoisseurs here in Kununurra.”*
- 19.4.3. S. Petherick said, *“I’m one of the many people who find (the current) bottle shop service less friendly and personal. Great service brings a totally different clientele & atmosphere. We are missing range and choice in Kununurra.”*
- 19.4.4. S. Julia said, *“Yes, because it’s nothing like it in town. It’s nice to have a dinner between friends with fine wines rather than the same low range all the time.”*
- 19.4.5. D. Mifflin said, *“Yes. So we can enjoy the same services as everywhere else.”*
- 19.4.6. J. Wilkinson, Chairperson- Child Protection, said, *“Yes- absolutely. Real choice options for locals and visitors providing better options similar to other places in (sic) state.”*
- 19.4.7. R. Duxbury said, *“YES! There is nothing like this in Kununurra. Why should I be punished for the actions of others. I want quality & variety at a fair price. Kununurra does not currently offer this.”*
- 19.4.8. C. Rasmussen said, *“Yes the layout look(s) smart and offering real wine info. No takeaway shop here offers anything close to this intended idea.”*
- 19.5. In the Liquor Barons Silver Sands determination, the applicant submitted a number of questionnaires and petitions which it claimed supported the establishment of the outlet. However, the determination states in paragraph 49 that *“The petitions and questionnaires whilst generally supportive of the proposal did not demonstrate any real*

requirement of consumers for the proposed store. The commission has generally taken a cautious approach to the evidential value of petitions as they are not always balanced in the questions asked and often do not reflect the number of people with a different view."

- 19.6. A detailed account of how the applicant canvassed all opinion is presented in this section of the submissions. The applicant also states that all the questionnaires it received have been submitted with this application and all public opinion has been presented. Explain how this is balanced in this application and how the applicant has presented all public opinion
- 19.7. In the determination on 18/08/2014, of the matter for the review of the decision of the delegate of the Director of Liquor Licensing to refuse an application to grant a special facility licence (tourism), reference LC 29/2014, the application was dismissed and the decision of the delegate of the Director of Liquor Licensing was affirmed.
- 19.8. Paragraph 61 of the above determination states that "Irrespective of the number of questionnaires or number of signatures to (say) a petition or a survey, it is the probative value of this evidence that is the issue not the numbers. Among other things, this will depend on how the questionnaires were framed, by whom collected and collated, whether there was any culling of opposing views and how they were obtained."
- 19.9. In *Woolworths Ltd v Commissioner of Police (LC 12/2013)*, the Commission observed that: "Historically, the Commission has tended to treat petitions with some caution. Whilst giving an indication of the public's level of support for the establishment of an outlet, petitions rarely, if ever, by their nature, give an indication of the number of people with a contrary view."
- 19.10. The applicant has considered the commission's findings regarding objective witness evidence as mentioned in the determinations cited above in the design of the witness questionnaire and the methods of collecting and collating evidence.
- 19.11. The applicant has employed several strategies to canvass the opinion of everyone in town, to get a full and proper picture of local opinion. These strategies are listed below and detailed in the paragraphs that follow.
 - 19.11.1. A visit to Kununurra town for close observation and to talk to local residents;
 - 19.11.2. Distribution of witness packs, including witness questionnaire to adjoining land owners and business owners and workers;
 - 19.11.3. Distribution of witness packs including witness questionnaire to residents of Kununurra town through the Post Office, 1000 posted;
 - 19.11.4. Placing a sign on the subject premises for public information and comment.
 - 19.11.5. An article in the local Kimberley Echo newspaper on 26/02/15.

- 19.12. In September 2014, Canford Hospitality Consultants together with Mr. Tony Martin, of the applicant, met with Mr. Adam Quinn, also of the applicant, in Kununurra. Together they talked to some local residents and asked them questions about their experiences with purchasing liquor at the existing outlets (hotel bottleshops) in the town.
- 19.13. They talked with local residents including Renee Duxbury of the East Kimberley Youth Justice Services, Katherine Fry, florist at Oria Orchids and mum of two and Greg Saggars, a recently retired Kimberley Region Prosecuting Sergeant, WA Police;
- 19.14. Renee Duxbury of the East Kimberley Youth Justice Services:
- 19.15. When asked where she buys her packaged liquor from, Renee Duxbury, who has lived in Kununurra town for the last 2 years, said that since Liquorland closed, she buys liquor online. This is inconvenient and she believes prices will inflate now Liquorland has closed. She believes that the two hotels in the town that offer packaged liquor are owned by the same person therefore competition will suffer.
- 19.15.1. When asked to comment on the product range at the two bottle shops, Renee said that the wine selection is small and *"she gets tired of having to buy the same wines."* She also said that the two hotels are never out of stock of emu export or VB, but are often out of premium brands. Last year when she wanted to do her Christmas shopping the liquor restrictions made it very inconvenient (Sherry for ham). She also said that during the dry season, the bottle shops are often out of stock.
- 19.15.2. When asked about the effect of the closure of Liquorland on the level of harm in town, Renee said that the closure has not helped decrease the level of harm in the town and stated "it may have been different if one of the drive throughs had closed."
- 19.15.3. When asked what was lacking in the existing packaged liquor outlets in the town, Renee stated "customer service and plenty of chilled space. She also stated, "price and lack of availability makes her go and buy online. Liquorland was the only one that honoured *specials - now it's gone no specials."*
- 19.16. Katherine Fry, florist at Oria Orchids and mum of two;
- 19.16.1. When asked to comment on shopping at the bottle shop she said, "with two kids in tow it's hard". She also said she hates drive throughs and stated "I like to browse, can't fight my way through the drive through crowds....I used to shop at Liquorland, now I don't shop. I send Steve (boyfriend/partner) to buy it. I'm not comfortable fighting through the drive through crowd."
- 19.16.2. Katherine also stated "Our group is looking to formulate a package for DINKY's to come to Kimberley for a flight/weekend- need to also have quality liquor store."

- 19.16.3. Katherine also remarked that when local Aboriginals are fighting you can walk very close to them and you will not be bothered.
- 19.17. Greg Saggars, a recently retired Kimberley Region Prosecuting Sergeant, WA Police;
- 19.17.1. When asked about the level of harm in town, Greg said that in Broome where he worked as a police officer, people got bashed for \$10. In Kununurra, he has never heard of anyone being bashed, *“they fight only among themselves.”*
- 19.18. The applicant also took the time to canvass the opinions of the local community members.
- 19.19. Tony Martin and Adam Quinn, both of the applicant, spent 13 days (from 10th Feb 2015 till 29th Feb 2015) visiting as many local people, businesses and government departments as possible with the aim of providing information on the proposal and distributing witness packs for people to provide comments and opinions.
- 19.20. The applicant would like to state that all the people consulted were very supportive of the proposal and took witness packs which they later completed and returned to the applicant. Details of the visit including names of the people they met with and their comments are attached. (Attachment 19)
- 19.21. The applicant also placed a sign on the subject premises on 21/01/15, at the time of writing these submissions the sign is still in place. (Attachment 20).
- 19.22. The purpose of this sign was for public information and to allow people in the local community to comment on the proposed liquor store. A mobile number was provided for people to call for more information and witness packs.
- 19.23. The applicant states that it received SMS requests from a number of people and witness packs were sent to all of them.
- 19.24. An article about the proposed liquor store was also published in the local newspaper, The Kimberley Echo, on 26/02/15, following a request by journalist Cally Dupe (Attachment 21). Tony Martin, of the applicant provided the information for the article.
- 19.25. The article provided a telephone number and email address for people who wanted further information on the proposal.
- 19.26. The applicant also canvassed the opinion of a local indigenous community leader.
- 19.27. Tony Martin and Adam Quinn of the applicant invited Mr. Teddy Carlton, who is the Chairperson of Miriuwung Gajerrong Corporation and a Leader of senior traditional owners, to a meeting, where he was invited to give his views and make comments on the proposed Liquor Barons Kununurra.
- 19.28. The meeting was held on 20/02/15 at the Kimberley Café, Papuana Street, Kununurra.

- 19.29. As a respected Aboriginal leader in the locality, Tony and Adam wanted to hear his views on the proposed Liquor Barons Kununurra and to give him the opportunity to comment on the proposal, particularly with regards to minimization of harm to the community.
- 19.30. Teddy was presented with the intended manner of trade document (IMT) and he gave his consent for his comments to be recorded and submitted to the Liquor Licensing Division in support of the application as part of the public interest assessment document.
- 19.31. The minutes of the meeting were recorded by Tony Martin, of the applicant and are presented in attachment 22.
- 19.32. The applicant states that Mr. Teddy Carlton was very supportive of the proposal. Mr Carlton was of the opinion that this application and the intended manner of trade proposed wouldn't have a negative impact on the community.
- 19.33. On 27/02/15, Tony Martin and Adam Quinn, of the applicant, delivered 1,000 Notices of Application to the Kununurra Post Office. A post office receipt is attached as evidence. (Attachment 23)
- 19.34. The applicant states that "These notices went into all Kununurra post boxes on 3rd March. These notices contained an invitation to all residents to receive a free information pack by mail."
- 19.35. The applicant states that, in addition to this, over 280 witness packs have been handed out personally by the applicants. This is over and above the packs sent out to people who requested them via sms.
- 19.36. Attached to these submissions are 105 witness questionnaires that were received by the applicant (Attachment 24)
- 19.37. The table below presents a summary of the witness responses

No	Questions	Percentage of Responses
1.	<u>Question number 1</u> How long approximately have you lived in Kununurra?	<5 years: (49 of 105 responses) 5- 10 years: (17 of 105 responses) >10 years: (37 of 105 responses)
2.	<u>Question number 4</u> Do you consider Kununurra to be well serviced with packaged (take-away) liquor facilities and amenities in general?	"Yes" - 15% (16 of 105 responses) "No" 80% <i>(84 of 105 responses)</i> Not answering the question: (3 of 105 responses)
3	<u>Question number 5</u> Please consider the enclosed Intended Manner of Trade document, and in particular the information on the proposed style of operation. Do you believe that the style of liquor store proposed is required in the locality?	"Yes" 88% <i>(93 of 105 responses)</i> "No" 6% (7 of 105 responses) Not answering the question: (3 of 105 responses)
4	<u>Question number 6</u> Do you believe that the style of liquor store proposed is important for Kununurra tourism?	"Yes" 88% <i>(94 of 105 responses)</i> "No" 3% (5 of 105 responses) Not answering the question: (4 of 105 responses)
5	<u>Question number 7</u> Where do you currently buy your packaged / take-away liquor from? (Please list)	Tavern: (66 respondents) Hotel: (57 respondents) Online: (16 respondents) Other: (10 respondents)
6	<u>Question number 10</u> What do you think about the range of liquor products offered by the two existing drive through bottleshops? Is the range adequate for your needs?	Yes" 28% (29 of 105 responses) "No" 62% <i>(66 of 105 responses)</i> Unsure / Not answering the question: (8 of 105 responses)

No	Questions	Percentage of Responses
7	<u>Question number 11</u> What do you think about the pricing of liquor products offered by the two existing drive through bottleshops?	<i>Too expensive 61%</i> <i>(65 of 105 responses)</i> About right: 33% (34 of 105 responses) Unsure / Not answering the question: (4 of 105 responses)
8	<u>Question number 16</u> What concerns (if any) do you have about the possible impact of this proposed liquor store on the locality?	<i>No concerns 77%</i> <i>(81 of 105 responses)</i> Some concerns 13% (14 of 105 responses) Unsure / No answering the question: (8 of 105 responses)
9	<u>Question number 17</u> In what ways do you consider that this proposed liquor store will impact the amenity of the community, whether positive or negative impact?	<i>Positive 82%</i> <i>(87 of 105 responses)</i> Negative 1% (2 of 105 responses) Unsure / No answering the question: (15 of 105 responses)
10	<u>Question number 18</u> The applicant proposes a convenient browse style liquor store which will supply a wide selection of fine wines, premium beers and spirits to the fast growing locality of Kununurra. Would you be inconvenienced by having this proposed liquor store available to you in the locality? Whether yes or no, why?	<i>Yes" 91%</i> <i>(96 of 105 responses)</i> "No" answers: 1% (2 of 105 responses) Unsure / Not answering the question: (5 of 105 responses)

19.38. It is submitted therefore that there is very strong objective evidence presented here supporting the application.

19.39. The main themes of the witness responses may be summarised as follows;

19.39.1. There is no browse style liquor store currently in Kununurra and people would like to have this option rather than having to purchase their packaged liquor only from drive through bottleshops or online.

- 19.39.2. People would like more variety in their choice of packaged liquor than is currently offered by the two existing packaged liquor outlets.
 - 19.39.3. The proposed liquor store will be an upmarket venue that will attract people who are looking for quality and will not attract people looking for quick cheap liquor.
 - 19.39.4. The proposed liquor store will offer fine gourmet products as well as opportunities for wine education and appreciation, services that are not currently available in Kununurra.
 - 19.39.5. The applicant has provided adequate security measures to minimise risks.
 - 19.39.6. The liquor store will add positively to the amenity of the locality because it will provide a badly needed service for the growing population and visitors to the locality.
- 19.40. People in country areas are very loyal to local businesses, it takes a lot to make them purchase out of town. They see buying local as promoting investment in their town, and boosting local employment. With this back drop it is interesting to note how many people are buying liquor online, out of frustration at the pricing levels, and lack of product range available.
- 19.41. Even witnesses who have some concerns about the social impact of alcohol in town, believe the proposed liquor store is needed.

20. Conclusion

- 20.1. From the objective evidence supplied with these submissions it seems clear that the requirements of consumers in terms of choice, diversity and convenience in regard packaged liquor are not currently being met in the locality, and will be met by the proposed Liquor Barons Kununurra, both now and into the foreseeable future.
- 20.2. It has been shown in these submissions that the population in the locality is growing fast, and therefore has increasing need of retail services in general including packaged liquor services.
- 20.3. Should this application be granted the applicant will be able to cater for the needs of the people already living in and visiting the area as the area continues to grow and develop.
- 20.4. Currently locals have only have the option of drive through bottleshops to purchase packaged liquor or to purchase online and wait for delivery.
- 20.5. This proposed liquor store offers a different concept than the existing packaged liquor outlets including browse style layout, higher quality products, wine tasting and appreciation, gourmet regional products and excellent customer service. It will be catering to the diverse requirements of the public for packaged liquor services, and it can be seen as the proper development of the industry, as it is very responsibly and carefully designed, and will be owned and managed by an experienced and very capable licensee.
- 20.6. The proposed intended manner of trade is geared to attracting a clientele that is focused on quality and value. The proposed liquor store will not be attractive to those seeking quick cheap liquor.
- 20.7. The public interest will be served in many respects with the granting of this application which will see a growing community supplied with important packaged liquor services and facilities, in a very low risk and responsible way.
- 20.8. It is therefore submitted that granting this application is very much in the public interest.

Drafted for and on behalf of Kununurra Liquor Pty Ltd by;



Phil Cockman

Canford Hospitality Consultants Pty Ltd

Monday, April 13, 2015

AMENDMENT

Cr R Dessert moves an amendment to point 7 of the Officer's Recommendation so that it reads 'All new pipes....'.

COUNCIL DECISION

Minute No. 10840

Moved: Cr R Dessert

Seconded: Cr K Wright

That Council, having considered all objections, grants planning approval for the proposed liquor store at Lot 555 (116) Coolibah Drive subject to the following conditions:

- 2. Development shall be in accordance with the approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.**
- 2. The building, paved areas, drainage, fencing/walls, line-marking, painted directional signage, lighting and landscaped areas associated with the approved development must be kept and maintained to the satisfaction of the Shire.**
- 3. The amenity of the area must not be detrimentally affected by the use or development through the:**
 - 3.1 Transport of materials, goods or commodities to or from the land;**
 - 3.2 Appearance of the building, works, or materials;**
 - 3.3 Emission of noise, artificial light, vibration;**
 - 3.4 Littering of packaging or other waste materials.**
- 4. That appropriate external lighting shall be installed across the site to ensure the safety of patrons is maintained at all times, to the reasonable satisfaction of the Shire.**
- 5. That all external lighting of the site, including car parking areas and buildings, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.**
- 6. All existing vegetation shown on the approved plan being retained and garden areas maintained to the satisfaction of the Shire.**
- 7. All new pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Shire.**
- 8. Prior to commencement of the use one bicycle rack/hanger must be provided on the land, or equivalent contribution made, to the satisfaction of the Shire.**

Advisory Note:

1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Carried 4/3

For: Cr R Dessert, Cr K Wright, Cr B Robinson, Cr S Cooke
Against: Cr G Taylor, Cr J Moulden, Cr D Learbuch

COUNCIL DECISION

Minute No. 10841

Moved: Cr B Robinson
Seconded: Cr D Learbuch

That Council, having considered all objections, grants planning approval for the proposed liquor store at Lot 555 (116) Coolibah Drive subject to the following conditions:

1. Development shall be in accordance with the approved plan(s) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. The building, paved areas, drainage, fencing/walls, line-marking, painted directional signage, lighting and landscaped areas associated with the approved development must be kept and maintained to the satisfaction of the Shire.
3. The amenity of the area must not be detrimentally affected by the use or development through the:
 - 3.1 Transport of materials, goods or commodities to or from the land;
 - 3.2 Appearance of the building, works, or materials;
 - 3.3 Emission of noise, artificial light, vibration;
 - 3.4 Littering of packaging or other waste materials.
4. That appropriate external lighting shall be installed across the site to ensure the safety of patrons is maintained at all times, to the reasonable satisfaction of the Shire.
5. That all external lighting of the site, including car parking areas and buildings, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.

6. All existing vegetation shown on the approved plan being retained and garden areas maintained to the satisfaction of the Shire.
7. All new pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Shire.
8. Prior to commencement of the use one bicycle rack/hanger must be provided on the land, or equivalent contribution made, to the satisfaction of the Shire.

Advisory Note:

1. Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Carried Unanimously 7/0

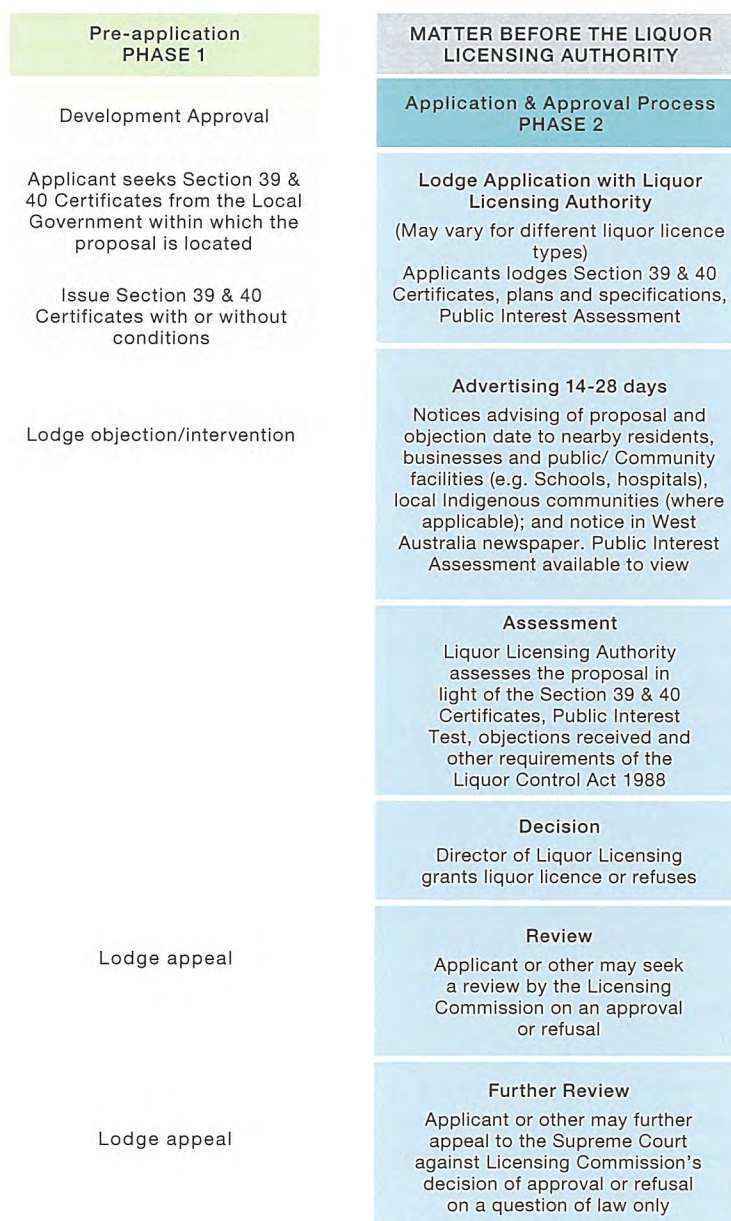
Cr D Spackman enters the Chambers at 5.40pm

Support Sheet 22: LOCAL GOVERNMENT POINTS OF INFLUENCE IN THE LIFE OF A LIQUOR LICENCE

» The following describes how the Local Government planning process is interlinked with the liquor licensing process and highlights the points of influence in that process.

The first phase involves Local Government decision-making, whereas the Liquor Licensing Authority is the decision-maker in the second phase. A flow chart detailing the points of influence for Local Government in both Phase 1 and 2 of the life of a liquor licence is shown in **Figure 1**.

FIGURE 1 – LOCAL GOVERNMENT POINTS OF INFLUENCE IN THE LIFE OF A LIQUOR LICENCE FLOW CHART



¹ Government of Western Australia, Department of Racing, Gaming and Liquor 2013.



The first phase involves Local Government decision-making, whereas the Liquor Licensing Authority is the decision-maker in the second phase.

Phase 1 – Local Government Certification and Approval

Local Development Approval of land use to allow the liquor outlet to operate is required in the first instance. See Part 3 - **Background and Processes** section of this document for detailed information on planning processes involved in Phase 1 and alcohol management opportunities within the planning framework.

Development approval can be done separately or concurrently with section 39 and 40 certificate approval (not required for conditional grant/removal of a licence). In order to gain approval in Phase 2 for a liquor licence, a section 39 and 40 certificate is required.

In accordance with Sections 39 and 40 of the *Liquor Control Act (1988)*, applicants seeking a liquor licence are required (unless the licensing authority otherwise determines) to obtain certification from the relevant Local Government demonstrating that a proposal complies with, or is capable of complying with:

- » the *Health Act (1911)*;
- » the *Local Government Act (1995)*;
- » the *Building Act (2011)*;
- » any other written law relating to sewerage and drainage; and
- » specific town planning scheme matters.

These are often referred to as Section 39 Certificates (relating to health requirements) and Section 40 Certificates (relating to planning requirements) and apply to:

- » the granting or removal of a licence;
- » the alteration or redefinition of a venue; and
- » applications for “liquor without a meal” permits.

Extracts of Sections 39 and 40 of the *Liquor Control Act (1988)* are shown in **Support Sheet 14 - Liquor Control Act (1988) Section 39 and 40 Certification.**

While the licensing authority may waive the requirement for Local Government certificates to accompany a licence application, this option is unlikely to occur. Current practice is that the Department of Racing, Gaming and Liquor will not accept a liquor licence application or begin the assessment process without an applicant first obtaining Section 39 and 40 Certificates and planning approval from the appropriate Local Government.

Regardless of whether a Local Government issues Section 39 and 40 Certificates, a development or use is still bound by building, health and planning requirements and relevant approvals must be additionally sought from Local Government under those relevant regulations prior to operations commencing. In most cases a Local Government considers planning approval concurrently with a request for Section 39 and 40 certification.

It is important to note from a Local Government planning perspective, that an application to the Licensing Authority for a liquor licence is unlikely to be formally initiated without first obtaining certified advice from the Local Government that the proposed use (including any physical land development) complies, or is capable of complying, with the local planning scheme and associated policy.

Something to Keep in Mind...

Each Local Government has a different planning scheme and other policies that are specific to their community. While Local Governments can influence whether or not a liquor licence type is permitted at a particular location, it is not always able to do so based on concerns regarding alcohol-related problems unless it has the appropriate scheme and policy provisions in place.

Section 40 Planning Implications

In order to provide the maximum influence to ensure that a liquor licence application will reflect the values of their communities, it is essential that Local Governments develop robust planning frameworks within which to guide applicants and assess proposals prior to consideration of Section 39 and 40 Certificate requests and planning applications.

Prior to assessment of an application for a Section 40 certificate, it is beneficial to have already developed a sound planning and decision framework to confidently make an assessment and decision that is less likely to be challenged.

It is important to note that Section 40 certification is a requirement under liquor control legislation and does not constitute development approval under planning legislation. Therefore, planning approval is still required for development (including use) of land or premises in addition to the issue of a liquor licence, prior to operations commencing.

There are a number of points worthy of noting in relation to Section 40 of the *Liquor Control Act (1988)* that may affect Local Government planning and are presented for consideration in the **Part 2 – Guideline** section of this document.

It is of utmost importance that a Local Government develops clear policy relating to a range of macro and micro planning matters involving alcohol provision and consumption, prior to structure planning, applications for rezoning, development approval and Section 40 certificates even reach the desk of a Local Government planner for assessment.

A Section 40 certificate assessment can include conditions. See **Part 2 – Guideline** and **Support Sheet 18 - Section 40 Certificate Conditions**.

Phase 2 – Liquor Licensing: Advertising, Assessment and Decision

Following Local Government approvals, in this phase, the applicant submits an application to the Department of Racing, Gaming and Liquor for a specific liquor licence or permit type accompanied by Section 39 and 40 Certificates received from the relevant Local Government, any relevant plans and a Public Interest Assessment (which outlines information on the premises' impact on a number of factors including harm or ill-health caused to risk groups in the area, social health indicators, impact on amenity and strategies to combat impacts).

The Director of Liquor Licensing determines advertising requirements according to the type of licence applied for and may include advertisement in the West Australian newspaper, mail drop to nearby premises and signage on the premises.

“Once an application has been accepted and advertised by Department of Racing, Gaming and Liquor, Local Government has an opportunity to revisit the proposal.”



During the advertising period, the Department of Racing, Gaming and Liquor assesses areas of statutory compliance such as probity checks on the proprietor, Local Government approvals and company structure.

Once an application has been accepted and advertised by Department of Racing, Gaming and Liquor, Local Government has an opportunity to revisit the proposal. Local Governments may intervene through submissions to the Director of Liquor Licensing or object to the application.

Local Government power to intervene in Phase 2

The Liquor Control Act (1988) enables Local Governments, Western Australia Police and the Executive Director Public Health to intervene in liquor licensing applications under particular circumstances (through submissions to the Director) or to object (oppose) to the application. This is the second point in the process whereby Local Government is given the opportunity to influence a liquor licence application.

Section 69 allows Local Government to intervene in proceedings before the licensing authority and introduce evidence or make representation to outline whether a premise is suitable for a liquor licence; whether an alteration or redefinition of a premises should be approved; or whether people who work or live in the vicinity would be negatively impacted upon. A Local Government may also intervene in proceedings to supply information relating to legislation and regulations within its jurisdiction.

Local Government power to object in Phase 2

A Local Government also has the ability to object to any application for a licence, as outlined in Sections 73(1) and 74(1) of the *Liquor Control Act (1988)*. This may be in addition to an intervention. The grounds for intervention and objection to a liquor licence application by a Local Government are detailed in **Support Sheet 23 – Grounds for Intervention and Objection**.

Assist community

Local governments may also assist community members during the liquor licensing advertising process through information dissemination as well as assisting in making a submission on a proposal.

Decision making and review

Decisions made to grant or refuse a licence/permit, can be appealed by involved parties to the Liquor Commission. If a Local Government has intervened or lodged an objection during the application process (and are not happy with the decision of the Director of Liquor Licensing), it may seek a review or appeal the decision (Section 69(13) of the *Liquor Control Act (1988)*). A further right of appeal is also available through the Supreme Court.



SHIRE of WYNDHAM | EAST KIMBERLEY

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Our Ref: A1147P/TP3355

Enquiries: Roy Adam

23 June 2015

Director of Liquor Licensing
 Department of Racing, Gaming and Liquor
 PO Box 6119
 EAST PERTH WA 6004

Dear Sir

Liquor Licence Application No. 177322 – Liquor Barons, Kununurra

I refer to the application by Kununurra Liquor Pty Ltd made 14 April 2015 described as "Application for the grant of a liquor store licence in respect of premises situated in Kununurra and known as Liquor Barons Kununurra."

At the Shire of Wyndham East Kimberley Ordinary Council Meeting of 24 March 2015 the Council approved a development application (DA110/14) for a liquor store at the premises known as Lot 555 (116) Coolibah Drive (see attached). This approval was subject to eight (8) conditions. This application was advertised and 8 submissions were received. Seven (7) were of objection and one (1) of support.

Please note that an advisory note on Planning Approval DA110/14 also stated:

Council has approved the proposed change of use on planning grounds and in light of its limitations in assessing social and health impacts. The Kununurra Wyndham Liquor Accord exists to assist in that regard, however it is a voluntary agreement. The Council strongly recommends and encourages liquor retailers to be members of the accord and participate in the identified strategies of the accord, such as the Take Away Management System (TAMS) program.

Following this decision a section 40 certificate was requested of Council and an approval was issued at the Ordinary Council Meeting of 28 April 2015 (see attached).

In the applications for planning approval and a liquor licence the applicant has provided supporting information which states that operators are "committed to trading in accordance with the liquor restrictions imposed by the Director of Liquor Licensing and they will be fully supportive and active members of the Kununurra Liquor Accord."

Given the above facts no objection has been made. Should you have any further enquiries please do not hesitate to contact me on 08 9168 4100.

Yours sincerely

Carl Askew
 Chief Executive Officer | Shire of Wyndham East Kimberley

Cr G Taylor declares an impartiality interest (former winner of 'best savoury muffin' and ag show supporter) in this item.

Cr R Dessert declares an impartiality interest (life member of KAS) in this item.

13.3.8 Kununurra Agricultural Society Temporary Caravan Park

Licence: Loritz Circus

DATE:	23/06/2015
PROPONENT:	Kununurra Agricultural Society Incorporated
LOCATION:	Lot 504, portion of Reserve 29799, Coolibah Drive
AUTHOR:	Ebony Daniell, Environmental Health Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PH.12.5
ASSESSMENT NO:	A2153
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider an application made by Kununurra Agricultural Society Incorporated (KAS) for a Temporary caravan Park Licence at Lot 504, portion of Reserve 29799, Coolibah Drive, Kununurra.

BACKGROUND

The Shire is currently assessing an application for a public event for the Loritz Circus to be held at the Kununurra Agricultural Showgrounds (Polocrosse Grounds). The event will run from 16 July to 19 July 2015 with the site being occupied for set-up from 14 July until clean-up is completed on 20 July. As part of their hire arrangement KAS have applied for a temporary caravan park licence. The proposed licence will be to accommodate 20 event staff and their families (total 34 people on site) at the Polocrosse Grounds to allow them to stay with their equipment and animals.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

- s. 7(5) *Before granting a licence a local government must ensure that —*
- (a) *the applicant has complied with the requirements of this Act;*
 - (b) *the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.*

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

- r. 47. *Applications not dealt with within time are taken to be refused*
- (1) *If within —*
- (a) *63 days of receiving an application for a licence; or*
 - (b) *35 days of receiving an application for a renewal of a licence, the local government to which the application was made has not informed the applicant whether or not the application has been granted, the applicant may give the chief executive officer of the local government a notice requiring the local government to inform the applicant, within 14 days, whether or not the application is granted.*

(2) If within 14 days after receiving a notice referred to in subregulation (1), the local government has not informed the applicant whether or not the application is granted, the local government is to be taken to have refused the application and the applicant may make an application for review to the State Administrative Tribunal under section 27 of the Act.

r. 54 Temporary licence

(1) A local government may, on payment of the fee set out in item 3 of Schedule 3, grant a temporary licence for a facility which is to remain in force for such period of less than one year, as is provided in the licence.

(2) A local government is to endorse on a temporary licence for a facility as conditions of the licence —

- (a) the maximum number of sites that may be used at the facility;
- (b) the maximum number of sites of particular types that may be used at the facility; and
- (c) the services and facilities that are to be provided.

POLICY IMPLICATIONS

Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds (the Policy)

Council Policy CP/HTH-3762 provides guidelines for the approval of temporary licences. The policy provides for reduction in amenity and requirements of the Regulations which is considered appropriate as temporary licences are usually issued only for a short time.

Guiding Statement 2 of the Policy requires the applicant to detail the need for a temporary facility with particular due regard to:

- providing justification for the temporary facility (why it's needed, the main users)
- impact on existing caravan parks and camping grounds within a 50km radius

FINANCIAL IMPLICATIONS

The lease to KAS is for the lease rent to commence at \$750 for Community Use, and is subject to review if, and effective as of the date, a caravan park licence is granted. However, it is not expected that this requirement would be applied for a licence issued for only two weeks.

If Kununurra Agricultural Society is granted a temporary licence they will be invoiced for a licence fee to be calculated in accordance with Schedule 3 of the Regulations. For the proposed temporary licence the minimum fee of \$100 will be applicable.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

To be licenced as a Caravan Park and Camping Ground compliance must be demonstrated with the Policy CP/HTH-3762 and the Regulations.

The proposed caravan park licence meets the requirements of the Policy with respect to Guiding Statement 2:

- Justification - the need for the licence is to accommodate event staff and allow them to be near their equipment and animals for the duration of their stay in Kununurra.
- Impact on existing parks – the licence will accommodate only event staff who travel to Kununurra for the purpose of participating in the Loritz Circus. It is not considered to have a negative impact on existing parks and is not competing for the normal tourist market.

The justification and short duration of the proposed licence makes it acceptable for Council to approve lesser services and facilities as part of the licence in accordance with the Policy.

ATTACHMENTS

There are no attachments associated with the report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council grant a temporary caravan park licence to the Kununurra Agricultural Society Incorporated for 14 short stay sites from 14 July - 20 July 2015 subject to the following conditions:

1. Only event staff associated with the Loritz Circus are to be accommodated in the park.
2. The following minimum ablution facilities are to be available for the duration of the licence: 4 toilets, 2 hand basins and 2 showers.
3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.
4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.
5. Fire extinguisher/s are to be located within 90 metres of every site.

COUNCIL DECISION

Minute No.11001

Moved: Cr G Taylor

Seconded: Cr S Cooke

That Council grant a temporary caravan park licence to the Kununurra Agricultural Society Incorporated for 14 short stay sites from 14 July - 20 July 2015 subject to the following conditions:

- 1. Only event staff associated with the Loritz Circus are to be accommodated in the park.**
- 2. The following minimum ablution facilities are to be available for the duration of the licence: 4 toilets, 2 hand basins and 2 showers.**
- 3. All wastewater (including sullage water) is to be collected and disposed of at an approved wastewater dump point.**
- 4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.**
- 5. Fire extinguisher/s are to be located within 90 metres of every site.**

Carried Unanimously 8/0

13.3.9 Development Application for Change of Use to include Motor Vehicle Repair at Lot 103 Bull Run Road, Kununurra

DATE:	23/06/2015
PROPONENT:	Brendan Fenech
LOCATION:	Lot 103 Bull Run Road, Kununurra
AUTHOR:	Jennifer Ninyette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	A6996P
ASSESSMENT NO:	A6996
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider a development application for Change of Use to include Motor Vehicle Repair at Lot 103 Bull Run, Kununurra

BACKGROUND

An application for planning approval was lodged on 10 April 2015 by Brendan Fenech for an existing vehicle body works business to be used for Motor Vehicle Repair at Lot 103 Bull Run Road, Kununurra.

The property, located on Bull Run Road, is the front lot adjoining two battle-axe lots, and has an area of 6745m². The property also adjoins storage units to the north and a transport depot to the south. The land is zoned Composite Industry under Town Planning Scheme No. 7 – Kununurra and Environs (TPS 7).



Location of Subject Site

The applicant previously lodged an application to undertake vehicle spray painting at the property which was approved under delegation on 14 August 2009. Relevant Conditions of this approval include the following:

2. *All repair (body) works and spray painting of vehicles shall be contained within the existing shed or purpose built spray booth compliant with Australian standards.*
3. *Spray painting shall occur in a manner that does not pose a risk to the environment or neighbouring properties. All dust and particulate matter shall be contained entirely within the boundaries of Lot 103 Bull Run Road.*
4. *The provision of five (5) car parking bays constructed to a minimum compact gravel standard to be maintained to the satisfaction of the local government.*
5. *All vehicles associated with the business activity shall be parked on the property.*
7. *The vehicle spray painting business shall be limited to the employment of immediate family members plus one other person, unless otherwise approved by the local government.*
8. *The business operation shall be limited to the hours of 7.00 am to 6.00 pm Monday to Saturday, unless otherwise approved by the local government.*

The property has an existing shed with lean to, within which a purpose built spray booth is located, an office with adjoining covered area, domed shade structure at the rear of the property, and a dwelling.

Proposal

The applicant proposes to continue to use the site for vehicle body works (panel beating and spray painting), however also wishes to undertake additional mechanical work on vehicles.

The proposed mechanical work will be undertaken within the existing shed near the existing spray booth. The only additional development proposed is to convert an existing undercover area into a wash down bay.

The submission and site plan is provided at Attachment 1.

STATUTORY IMPLICATIONS

Town Planning Scheme No. 7 – Kununurra and Environs

The land at Lot 103 Bull Run Road is zoned Composite Industry under TPS 7.

The objective of the Composite Industry zone is to provide for the establishment of minor industrial pursuits and single residential development on the same lot with particular regard being given to operating hours, levels of development, and potential impact of the development on adjoining composite industrial zone lots and future rural residential uses in the locality.

Clause 5.15.2 of TPS 7 outlines the development requirements within the Composite Zone which include:

- c) generally allows family or dependants to be employed in the industrial pursuit
- d) establish an industry that is of a nature as determined by Council that can operate compatibly with residential living and with minimal impact on adjoining residential uses.
- e) establish an industry that is essentially a single person operation and is not reliant on attracting passing trade or customers;

The proposed use would be Motor Vehicle Repair which is defined in TPS 7 as below:

Motor Vehicle Repair Station means any land or buildings used for or in connection with the electrical and mechanical repairs and overhauls to motor vehicles. The term includes repairs to tyres, but does not include recapping or re-treading of tyres, panel beating, spray painting and chassis reshaping.

Motor Vehicle Repair within the Composite Industry Zone is an AA use, which means that Council may, at its discretion, permit the use.

Draft Local Planning Scheme No. 9 (draft LPS 9)

The Objectives of the Composite Industry zone in the draft LPS 9 are as follows:

- (b) To provide for composite residential/light industrial development to meet the needs of businesses which include a residential component.
- (c) To manage the interface between composite residential and light industrial uses.

Draft LPS 9 outlines that within the Composite Industry zone, a person may only:

- a) Undertake development which incorporates an industrial/business component;
- b) Develop a residential dwelling where that residential component is incidental to an industrial/business component;
- c) Allow a residential dwelling to be occupied by the owner, manager or employee (and their family and/or dependents) of the industrial pursuit;
- d) Establish an industry that is of a nature, as determined by the local government, which can operate compatibly with residential living and with minimal impact on adjoining properties.

The intent of the Composite Industry zone in the new draft Scheme is therefore to allow an industry to be established with a residential component, however does not limit industry to essentially a single person operation, as outlined in TPS 7.

The draft LPS 9 does however outline that measures are to be taken to ensure no unreasonable noise, odour, dust or other emission extends offsite, that all business and industrial activities operate within reasonable hours, and that landscaping be installed and maintained to the satisfaction of the Shire.

POLICY IMPLICATIONS

There are no policy implications associated with this item.

FINANCIAL IMPLICATIONS

The applicant has paid the planning application fee.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.2: Maintenance of economic diversity and greater community returns from investment in the region

Strategy 2.2.6: Support local initiatives that promote entrepreneurial activities and a greater diversity of industries in the East Kimberley

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required.

COMMENT

The land has been developed and is currently utilised for panel beating and spray painting, which already includes mechanical suspension repairs, however the change of use application proposes to also allow additional mechanical repair of vehicles to be undertaken at the property.

Motor vehicle repair is a use that Council may approve at its discretion, and is considered to be a use that is ancillary to, and would not have any greater impact on the neighbouring properties than, the existing panel beating and spray painting undertaken at the site. It is also noted that the Shire has not received any complaints regarding the current operation in the 6 years since it was approved.

While the intent of the Composite Industry zone under TPS 7 is to provide for the establishment of minor industrial pursuits and single residential development on the same lot, and outlines that the industrial pursuit should essentially be a single person operation, it is noted that the Scheme does not specifically limit the number of employees not members of the occupiers household.

It is also noted that in the draft Local Planning Scheme No. 9 the Shire is proposing that development of Composite Industry lots will provide for light industrial development to meet the needs of businesses which include a residential component, but does not limit the business/industry to essentially being a single person operation.

It is acknowledged that the applicant currently has more than one worker that is not an immediate family member, in contravention of the initial planning approval, however it is recommended that this restriction be removed. Instead it is considered that the impact of the industrial pursuit on adjoining landowners can be appropriately managed by retaining the hours of operation initially prescribed, and requiring additional landscaping to screen adjoining properties.

In relation to parking, a minimum of 13 bays are required to be provided, based on approximately 100m² of office space (3 bays), 700m² of service and storage areas (8 bays) and parking associated with the residence (2 bays).

ATTACHMENTS

Attachment 1 - Submission and Plan

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council grants planning consent for Change of Use to include Motor Vehicle Repair at Lot 103 Bull Run Road, Kununurra, subject to the following conditions:

1. Use shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.
2. All motor vehicle repair works shall be contained within the existing shed and lean-to areas.
3. All vehicles associated with the business activity are to be parked on the property at all times.
4. The provision of thirteen (13) car parking bays constructed to a minimum compact gravel standard to be maintained to the satisfaction of the local government.
5. The business operation shall be limited to the hours of 7.00 am to 6.00 pm Monday to Saturday, unless otherwise approved by the local government.
6. All on-site wastewater is to be disposed of to the satisfaction of the Shire's Environmental Health Officer.
7. A minimum 1 metre wide landscaping strip shall be established along the rear boundary of the property (adjoining Lot 104 Bull Run Road) and maintained to the satisfaction of the local government.
8. Measures are to be taken to ensure no unreasonable noise, odour, dust or other emission extends offsite to the satisfaction of the local government.

COUNCIL DECISION

Minute No.11002

Moved: Cr S Cooke

Seconded: Cr G King

That Council grants planning consent for Change of Use to include Motor Vehicle Repair at Lot 103 Bull Run Road, Kununurra, subject to the following conditions:

- 1. Use shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.**
- 2. All motor vehicle repair works shall be contained within the existing shed and lean-to areas.**
- 3. All vehicles associated with the business activity are to be parked on the property at all times.**
- 4. The provision of thirteen (13) car parking bays constructed to a minimum compact gravel standard to be maintained to the satisfaction of the local government.**
- 5. The business operation shall be limited to the hours of 7.00 am to 6.00 pm Monday to Saturday, unless otherwise approved by the local government.**
- 6. All on-site wastewater is to be disposed of to the satisfaction of the Shire's Environmental Health Officer.**
- 7. A minimum 1 metre wide landscaping strip shall be established along the rear boundary of the property (adjoining Lot 104 Bull Run Road) and maintained to the satisfaction of the local government.**
- 8. Measures are to be taken to ensure no unreasonable noise, odour, dust or other emission extends offsite to the satisfaction of the local government.**

Carried Unanimously 8/0

To whom it may concern,

I would like to make an application for planning approval to add mechanical servicing and repairs to our existing business that is approved for panel beating and spray painting.

As the mechanical industry coincides with our industry and we currently carry out mechanical suspension repairs as part of the panel beating trade, many of our clients have requested that we also do their mechanical work.

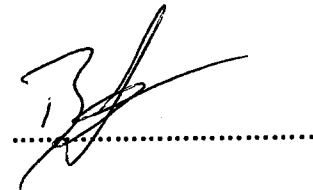
Additionally as we are a preferred repairer for many insurance companies and mechanical work is currently subletted out and adds to delays in the repair process. If we could carry out these mechanical duties in our own premises then we can reduce the repair time.

Other than designating an area where we can wash down vehicles and the water be treated through an oil separator and containing the waste oils left over from vehicle servicing and repairs we have all other needs in place to commence this service.

We intend to limit our mechanical services and repairs to light vehicle and commercial vehicles only. There will be no heavy vehicles being repaired.

I hope that you will consider this application as a viable need to our existing business.

Yours sincerely

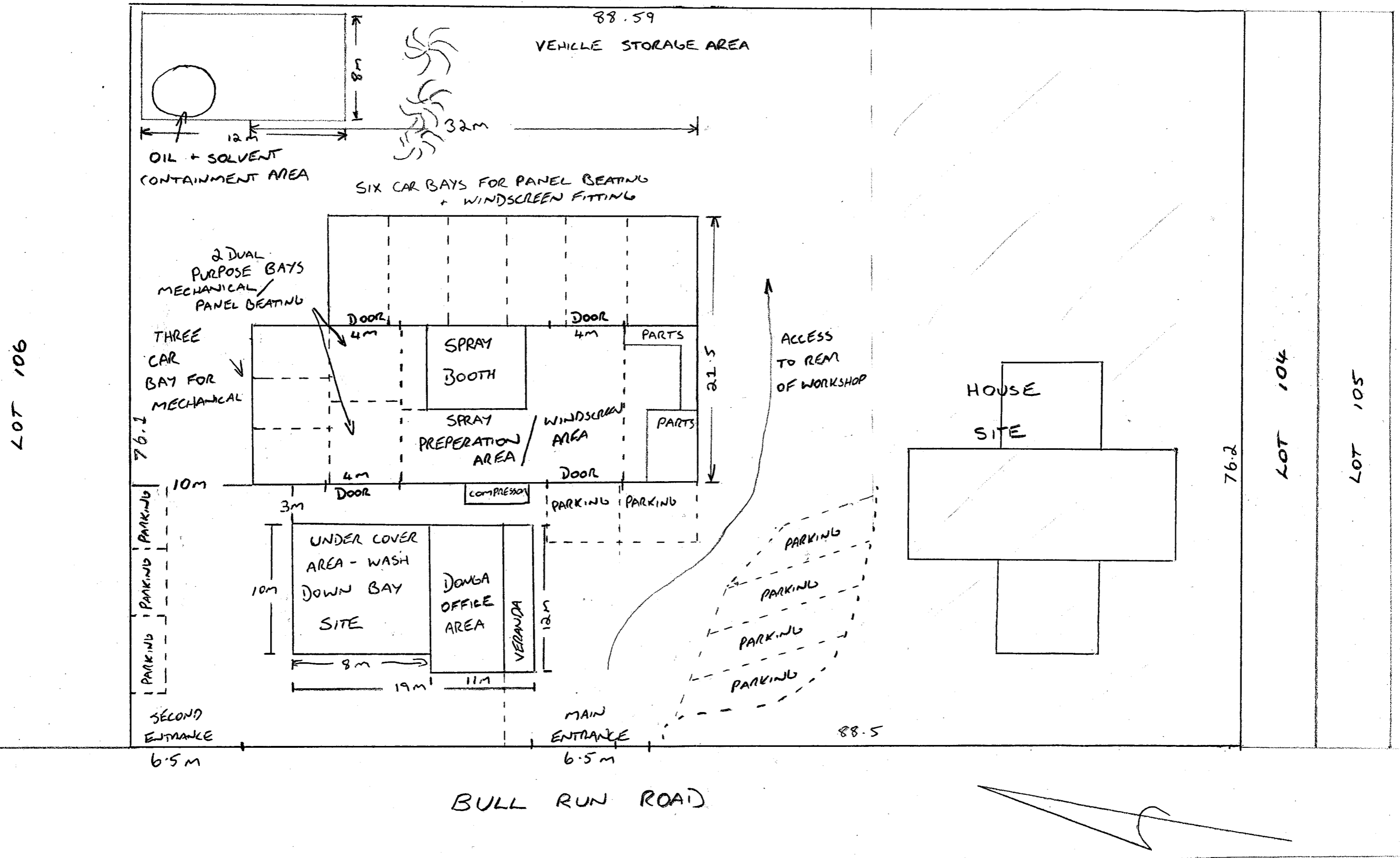
A handwritten signature in black ink, appearing to be 'Brendan Fenech', written over a horizontal dotted line.

Brendan Fenech

Kununurra Smash Repairs & Windscreens

SITE PLAN LOT 103 BULL RUN ROAD

BP + PE FENECH 10/04/15



Cr G Taylor declares an impartiality interest (former winner of 'best savoury muffin' and ag show supporter) in this item.

Cr R Dessert declares an impartiality interest (life member of KAS) in this item.

13.3.10 Development Application for a Caravan Park at Lot 504, Coolibah Drive, Kununurra

DATE:	26/05/2015
PROPONENT:	Kununurra Agricultural Society Incorporated
LOCATION:	Part Lot 504 Coolibah Drive, Kununurra
AUTHOR:	Jennifer Ninyette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	A7620P
ASSESSMENT NO:	A7620
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider a development application for a Caravan Park at Lot 504, portion of Reserve 29799, Coolibah Drive, Kununurra.

BACKGROUND

An application for planning approval was lodged on 20 April 2015 by the Kununurra Agricultural Society Incorporated (KAS) for the permanent approval of a Caravan Park.

The property is located on the corner of the northern intersection of Coolibah Drive and Ivanhoe Road, opposite the Ivanhoe Caravan Park and Resort, and adjoins the Coolibah Estate to the east and Kununurra Hospital land holdings to the south. The land is Parks and Recreation Reserve under Town Planning Scheme No. 7 – Kununurra and Environs (TPS 7) and is leased to KAS for the purpose of Community Use.

In 2001, Council approved Kununurra Agricultural Society to use the oval surrounds as a caravan park and camping ground during the peak tourist season. Justification for the approval was to accommodate big rigs and people travelling with pets when all other parks were full.

The license was extended in 2006 when at the Ordinary Council Meeting held on 21 November 2006, Council resolved (Minute No. 7557) to enter into negotiations with the KAS to implement a new licence subject to the following provisions:

- i. The number of long term bays shall be no greater than 10.
- ii. The number of short term bays shall be no greater than 30.
- iii. The maximum stay for short term bays shall be three months (as per the regulations)
- iv. The caravan park may operate between April 1st and November 30th. After this period the caravan park may only be occupied by the caretaker, and any caravaner or camper that cannot gain entry to another caravan park or camping ground due to ownership of pets or are vehicles are too large to gain entry into an alternate park.
- v. Only travellers with pets or large vehicles may occupy a bay at the caravan park /camping ground, except during the months of June, July and August

- when it shall not be necessary to have a pet or large vehicle to occupy the caravan park/camping ground.
- vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.

In August 2010, the Shire received three written complaints regarding the KAS' caravan park and camping licence, questioning how a licence was issued without compliance with the applicable Caravan Parks and Camping Grounds Act 1995 and Caravan Park and Camping Grounds Regulations 1997, and why there is a need for them to operate outside of the peak tourist season.

At the Ordinary Council Meeting of 14 December 2010, in consideration of legal advice received and Council's draft policy in relation to licencing of temporary caravan parks and camping grounds, Council resolved (Minute 9369) to:

1. Issue a licence to KAS for 30 short stay sites until 30 June 2011, subject to the approval of the Minister for Regional Development and Lands.
2. Advise the KAS that prior to expiration of the licence on 30 June 2011 it will be necessary for them to make application for approval to operate either:
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or
 - b. A temporary park in accordance with Council policy.

In 2012, Council considered an application by the KAS to operate a temporary caravan park with a variation to Council Policy CP/HTH-3762 Licencing of Temporary Caravan Parks and Camping Grounds to allow 6 long term sites. Council resolved (Minute No. 9709) to approve the KAS to operate as a temporary caravan park in accordance with Council policy.

Copies of the previous Council decisions in relation to the KAS caravan park and camping ground licence are provided at Attachment 1.

In late 2014, the Shire has again received complaints from other operators about the KAS operating for the tourist season and not on a level playing field i.e. without the requirement to comply with the Act and Regulations, as a temporary facility under Council's policy, leasing the land for a nominal fee and ability to apply for a rates concession.

On the 16 October 2014 an inspection of the KAS facility was undertaken by the Shire's Environmental Health Officers to assess the park following the proposal to change from a temporary Caravan Park to a licensed Caravan Park, to confirm compliance with the Caravan Parks and Camping Grounds Act 1995 and Caravan Parks and Camping Grounds Regulations 1997.

Following this inspection a letter was sent dated 4 November 2014 detailing a schedule of works which are necessary to be undertaken before a licence can be granted for a permanent park, and additional supporting documentation to be submitted with the application. A copy of this correspondence, which also advised that a planning application is required to operate a permanent park, is provided at Attachment 2.

Proposal

The KAS seek to establish a permanent caravan park, for which they have been advised that planning approval must first be obtained.

In their submission they have addressed the schedule of required works previously provided by the Shire, and outlined what items have been actioned, and what items are in the process of being actioned.

The proposed draft site plan indicates that the KAS intend to apply for 45 short stay sites and 1 long stay (caretaker) site for the permanent caravan park with proposed development to include:

1. Provision of sullage waste water dump points within 10 metres of each caravan site;
2. Entrance and internal road upgrades;
3. Connection of caretakers site to main sewer, and
4. Two additional ablution facilities.

A copy of the letter of intent and submission from KAS is provided at Attachment 3.

Shire Officers have requested additional information in relation to the planning application, including a revised site plan showing all relevant detail and a timeline to outline the proposed completion dates to undertake the required works.

KAS have recently provided a project plan outlining key project milestones, including proposed commencement and completion dates for each task however the revised detailed site plan is not yet completed. A copy of the project plan is provided at Attachment 4.

STATUTORY IMPLICATIONS

Town Planning Scheme No. 7 – Kununurra and Environs

The land, being portion of Reserve 29799, is Scheme Reserve for the purpose of Parks and Recreation under Town Planning Scheme No. 7 – Kununurra and Environs. The objective of the Parks and Recreation reserve is 'to identify and protect land utilised or intending to be utilised for local recreational needs'.

Clause 2.2.1 of TPS states that where an application for Planning Approval is made with respect to land within a Scheme Reserve, the Council shall have regard to the ultimate purposes intended for the Reserve.

Land Administration Act 1997

Reserve 29799 is reserved under the Land Administration Act 1997 (LAA) for the purpose of 'Recreation, Community Facilities, Caravan Park and Camping Ground'.

The Shire holds the management order for both reserves with power to lease for a maximum term of 21 years, subject to consent of the Minister for Lands.

At the Ordinary Council Meeting held on 28 April 2015, Council resolved to offer a lease to the KAS for the authorised use of "Community use, including recreation, equestrian and agricultural show activities", for a term of 21 years and commencing as of 1 July 2015.

However, the lease provisions allow for the change of authorised use to include "caravan park and camping ground" at any time during the term of the Lease, and it is noted that the rent is reassessed to an amount determined by the Lessor (acting reasonably) to take into account the new authorised use, and will take effect on the date that the Minister of Lands grants approval.

Caravan Parks and Camping Grounds Act 1995 and Caravan Parks and Camping Grounds Regulations 1997

The objects of the Caravan Parks and Camping Grounds Act 1995 are:

- (a) To provide for the licensing of caravan parks and camping grounds;
- (b) To regulate caravanning and camping;
- (c) To improve and promote caravanning and camping;
- (d) To ensure that the design and layout of land use for caravan parks and camping grounds and the provision and availability of amenities and services meet desirable standards; and
- (e) To ensure that the standards of caravans and annexes in caravan parks are adequate to protect the health and safety of the occupiers.

The Act states that a caravan park or camping ground cannot be operated without a licence, and that application for the grant or renewal of a licence is to be made to the local government.

Clause 42 of the *Caravan Parks and Camping Grounds Regulations 1997* only allows the local government to licence certain types of facilities, being either a caravan park, camping ground, caravan park and camping ground, park home park, transit park, and nature based park.

However, Clause 54 of the Regulations allows Local Government to license caravan parks with lesser facilities for a temporary period.

Schedule 7 of the Regulations outlines the general provisions for caravan parks and camping grounds, and specific requirements in relation to buildings, fences and hard stands, roads and parking, recreational areas, ablution and toilet areas, laundry facilities, washing up facilities for campers, lighting, firefighting equipment, electricity, water supply, waste water, sewerage and drainage.

POLICY IMPLICATIONS

Council Policy: CP/PMG-3780 Leasing of Council Managed Reserve Land - Community

Council's Leasing of Council Managed Reserve Land was adopted in July 2012, and was reviewed in April 2015, to inform the decision making process for Council, and ensure equity and consistency in community leasing arrangements. The objectives of this policy are to:

- Ensure Community leases maximise benefit to the community of the Shire of Wyndham East Kimberley by supporting community organisations in the provision of services, facilities and events.
- Ensure the economic and environmental impact of community leases on the Shire and the community is considered.
- Encourage clarity and consistency in the Shire's community leases and associated processes.
- Promote equity across all Shire community leases without favour or prejudice to individual organisations.
- Ensure assets leased to community organisations are well maintained to maximise sustainability, promote safety and maximise community benefit.
- Minimise risk to the Shire, financial or litigious, resulting from Community leases.

- Promote collocation and multipurpose development, where practicable, and strategic development of community facilities based on future requirements of the land and community needs.
- Ensure the value of community leases and Shire contribution to the community through community leases is recognised.

FINANCIAL IMPLICATIONS

The applicant has paid the planning application fee of \$389.

The lease offer to KAS is for the lease rent to commence at \$750 for Community Use, and is subject to review if, and effective as of the date, a caravan park licence is granted.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.2: Alignment of regional and local priorities with other agencies and community groups

Strategy 1.2.3: Promote the collocation of community facilities and sharing of resources among community groups

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.1: A highly valuable East Kimberley economy that maximises social benefits

Strategy 2.1.2: Promote and support major events that benefit locals and attract visitors to the area

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities

Objective 3.4: Protection and enhancement of community facilities

Strategy 3.4.1: Manage, maintain and upgrade public parks and amenities to ensure they meet community need and are accessible to people of all ages and abilities

Strategy 3.4.3: Ensure Shire facilities are planned and managed to meet community needs

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required.

COMMENT

It is acknowledged that the reserve purpose allows for the use of the land for the purpose Caravan Park and Camping Ground, and that the lease offer to KAS allows them to change the authorised use to include "caravan park and camping ground".

Accordingly, the use of the land for this purpose has, in principle, already been supported by the Department of Lands and Council, and a planning approval can be issued on the basis of the KAS facilities being upgraded to ensure full compliance with the *Caravan Park and Camping Ground Regulations 1997*.

It is acknowledged that the grant of planning approval will be subject to a revised site plan showing all relevant details and additional floor and elevation plans of the proposed ablution units. It is also recommended that the planning approval should consider appropriate minimum setbacks be established to ensure that proposed caravan sites are located an appropriate distance from the oval, which is utilised by the community.

However, although a planning approval can be granted, the operation of the caravan park on the site will still be subject to a separate licence application being considered and approved by Council once the KAS have completed required works to comply with the *Caravan Parks and Camping Grounds Regulations 1997*.

KAS has advised that they are working towards undertaking the required works and making an application for a permanent caravan park, and intend to do so during the 2 year period that a planning approval is valid.

The main additional supporting information and development required to support a permanent caravan park licence, and which can be conditioned as part of a planning approval, are:

- the preparation of a detailed site plan by a draughtsperson.
- sullage waste dump points to be within 10 metres of each caravan site.
- potable water taps to be within 10 metres of each short stay site, unless otherwise approved.
- a minimum of 4 visitor parking bays to be provided onsite.
- upgrade of internal roads to a satisfactory standard.
- provision of recreational areas protected from the weather.

In addition there are minor items such as installing shelving, coat hooks, permanently affixed seats/benches within showers, baby's bath, hot water systems to hand basins and troughs, additional power points and provision of fire extinguishers which the KAS have either actioned or are in the process of doing so.

In relation to the potential development of additional ablution facilities, it is noted that there is opportunity for the Shire and the KAS to consider working together to establish communal facilities to service oval users, events such as the annual agricultural show, and address future community needs.

ATTACHMENTS

Attachment 1 - Previous Council Items

Attachment 2 - Shire letter regarding caravan park inspection

Attachment 3 - KAS Letter of Intent and submission

Attachment 4 – KAS Project Plan (CONFIDENTIAL – Provided under separate cover)

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council grants planning consent for a Caravan Park at Lot 504 Coolibah Drive, Kununurra, subject to the following conditions:

1. Use and development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.
2. An amended detailed site plan, drawn to scale, is to be submitted and approved by the Shire to show:
 - Proposed caravan bays and dimensions, and setback distances of the bays from lease boundaries or existing buildings
 - Dimension and setback of proposed ablution block dimensions from boundaries or existing buildings
 - Visitor parking area.
3. Additional plans must be submitted and approved by the Shire to show the floor plans and elevations of proposed ablution blocks. When approved the plans will be endorsed and form part of the approval. The plans must be drawn to scale and be in line with the amended site plan to be submitted.
4. No caravan bays shall be located within 20 metres of the oval boundary.
5. A minimum of 4 visitor car parking bays, constructed to a minimum compact gravel standard and line marked, shall be provided onsite and are to be maintained to the satisfaction of the Shire.
6. All internal roads and accessways shall be constructed to the satisfaction of the Shire.
7. Landscaping and treatments to the site should ensure the development presents well to Ivanhoe Road, Coolibah Drive and the oval, as well as providing reasonable amenity for the development.
8. The site is to be kept clean and tidy to the satisfaction of the Shire.
9. Obtain separate Shire approval for the erection of any advertising signs.

Advice:

1. The permitted use and development shall be in accordance with the *Caravan Parks and Camping Grounds Regulations 1997* (as amended). A Caravan Park Licence will be required to be issued by the Shire prior to the operation of a caravan park from the site.

AMENDMENT

Cr G Taylor moves an amendment to the Officer's Recommendation, to add an advice dot point 2:

Advice 2. Attention is drawn to the terms of the Lease between Kununurra Agricultural Society Inc. and the Shire of Wyndham East Kimberley in particular clause 8.4 Change of Authorised Use. The current Authorised Use is "Community use , including recreation, equestrian and agricultural show activities". The Rent will be reassessed to an amount determined by the Lessor (acting reasonably) to take into account the new Authorised Use to include caravan park and camping ground. This Change of Authorised Use will be initiated on the issuance by the Shire of Wyndham East Kimberley of a Caravan and Camping Ground Licence to Kununurra Agricultural Society Inc. Such change of rent is to take effect on the date that the Minister of Lands grants his approval.

COUNCIL DECISION

Minute No.11002

Moved: Cr G Taylor

Seconded: Cr B Robinson

That the Officer's Recommendation is amended to add an advice dot point 2: Advice 2. Attention is drawn to the terms of the Lease between Kununurra Agricultural Society Inc. and the Shire of Wyndham East Kimberley in particular clause 8.4 Change of Authorised Use. The current Authorised Use is "Community use , including recreation, equestrian and agricultural show activities". The Rent will be reassessed to an amount determined by the Lessor (acting reasonably) to take into account the new Authorised Use to include caravan park and camping ground. This Change of Authorised Use will be initiated on the issuance by the Shire of Wyndham East Kimberley of a Caravan and Camping Ground Licence to Kununurra Agricultural Society Inc. Such change of rent is to take effect on the date that the Minister of Lands grants his approval.

Carried Unanimously 8/0

The amended Officer's Recommendation is considered:

COUNCIL DECISION

Minute No.11003

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council grants planning consent for a Caravan Park at Lot 504 Coolibah Drive, Kununurra, subject to the following conditions:

- 1. Use and development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire.**
- 2. An amended detailed site plan, drawn to scale, is to be submitted and approved by the Shire to show:**
 - Proposed caravan bays and dimensions, and setback distances of the bays from lease boundaries or existing buildings**
 - Dimension and setback of proposed ablution block dimensions from boundaries or existing buildings**
 - Visitor parking area.**
- 3. Additional plans must be submitted and approved by the Shire to show the floor plans and elevations of proposed ablution blocks. When approved the plans will be endorsed and form part of the approval. The plans must be drawn to scale and be in line with the amended site plan to be submitted.**
- 4. No caravan bays shall be located within 20 metres of the oval boundary.**
- 5. A minimum of 4 visitor car parking bays, constructed to a minimum compact gravel standard and line marked, shall be provided onsite and are to be maintained to the satisfaction of the Shire.**
- 6. All internal roads and accessways shall be constructed to the satisfaction of the Shire.**
- 7. Landscaping and treatments to the site should ensure the development presents well to Ivanhoe Road, Coolibah Drive and the oval, as well as providing reasonable amenity for the development.**
- 8. The site is to be kept clean and tidy to the satisfaction of the Shire.**
- 9. Obtain separate Shire approval for the erection of any advertising signs.**

Advice:

- 1. The permitted use and development shall be in accordance with the *Caravan Parks and Camping Grounds Regulations 1997* (as amended). A Caravan Park Licence will be required to be issued by the Shire prior to the operation of a caravan park from the site.**

- 2. Attention is drawn to the terms of the Lease between Kununurra Agricultural Society Inc. and the Shire of Wyndham East Kimberley in particular clause 8.4 Change of Authorised Use. The current Authorised Use is "Community use , including recreation, equestrian and agricultural show activities". The Rent will be reassessed to an amount determined by the Lessor (acting reasonably) to take into account the new Authorised Use to include caravan park and camping ground. This Change of Authorised Use will be initiated on the issuance by the Shire of Wyndham East Kimberley of a Caravan and Camping Ground Licence to Kununurra Agricultural Society Inc. Such change of rent is to take effect on the date that the Minister of Lands grants his approval.**

Carried Unanimously 8/0

12.4.3 Kununurra Agricultural Society's Caravan Park And Camping Ground License

DATE:	14 December 2010
PROPONENT:	Kununurra Agricultural Society
LOCATION:	Reserve 29799 Coolibah Drive
AUTHOR:	Kelly Cripps, Senior Environmental Health Officer
REPORTING OFFICER:	Nick Kearns, Director Development Services
FILE NO:	01.2153.03
ASSESSMENT NO:	A2153

PURPOSE

For Council to consider terms of the Caravan Park and Camping Ground License held by the Kununurra Agricultural Society on Reserve 29799.

BACKGROUND

Reserve 29799 is vested with the Shire for community and recreation purposes. The Kununurra Agricultural Society has a lease over the Reserve and the purposes listed on the lease include entertainment, recreation, equestrian and agricultural show activities.

In 2001, Council approved the Kununurra Agricultural Society's use of the oval surrounds as a caravan park and camping ground during the peak tourist season. Justification for the approval was to accommodate big rigs and people travelling with pets when all other parks were full.

The license was extended beyond its temporary nature in 2006 when at its Ordinary Meeting on 21 November 2006, Council resolved the following:

Minute No 7557

Moved: Cr K Wright

Seconded: Cr J Buchanan

- 1. That Council enter into negotiations with the Kununurra Ag Society to implement new licence subject to the following provisions:***
 - i. The number of long term bays shall be no greater than 10.***
 - ii. The number of short term bays shall be no greater than 30.***
 - iii. The maximum stay for short term bays shall be three months [as per the Regulations].***
 - iv. The caravan park may operate between April 1st and November 30th. After this period the caravan park may only be occupied by the caretaker, and any caravaner or camper that cannot gain entry to another caravan park or camping ground due to ownership of pets or are vehicles are too large to gain entry to an alternate park.***
 - v. Only travellers with pets or large vehicles may occupy a bay at the caravan park /camping ground, except during the months of June, July and August when it shall not be necessary to have a pet or large vehicle to occupy the caravan park/camping ground.***

<p>vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.</p> <p>2. That Council direct Council officers to investigate compliance with the Caravan Parks and Camping Grounds Regulations 1997 for all other caravan parks in the Shire.</p> <p>3. Council delegate to CEO to achieve a negotiated outcome within the provisions of this recommendation.</p> <p style="text-align: right;">Carried Unanimously: 7/0</p>

With regard to provisions listed in point 1 of the above motion:

CONDITION	COMMENT
i. The number of long term bays shall be no greater than 10	These two conditions have been wrongly interpreted by the Agricultural Society to mean they could be licensed for a total of 40 sites.
ii. The number of short term bays shall be no greater than 30	In actual fact ablution facilities at the show ground only permit it to be licensed for a total of 30 sites.
iii. The maximum stay for short term bays shall be 3 months (as per regulations)	This condition is unnecessary as the 3 month maximum for short term sites is a requirement of the regulations.
iv. The caravan park may operate between April 1 st and November 30 th . After this period the caravan park may only be occupied by the caretaker, and any caravanner or camper than cannot gain entry to another caravan park or camping ground due to ownership of pets or vehicles too large to gain entry to an alternate park.	<p>This point inadvertently approves the Agricultural Society to operate a caravan park and camping ground for a full year subject to conditions outside of 1st April to 30th November.</p> <p>Council leaves itself open to reprimand by licensing the Agricultural Society as a caravan and camping ground when it did not comply fully with the regulations.</p> <p>Outside the peak tourist season, the need to provide a facility for travellers with pets or large vehicles is not necessary as there are two caravan parks that accept pets and there are ample sites in the permanent caravan parks for large rigs so these conditions are not justified.</p>
v. Only travellers with pets or large vehicles may occupy a bay at the caravan park/camping ground, except during the months of June, July and August when it shall not be necessary to own a pet or have a large vehicle to occupy the caravan park/camping ground.	<p>Again, the need to provide a separate permanent facility for travellers with pets or large vehicles outside of the peak tourist season is not necessary as there are two caravan parks that accept pets and there are ample sites in the permanent caravan parks for large rigs.</p> <p>If the main issue is finding sites in the peak tourist season then it would be more appropriate to license the Agricultural Society to operate at temporary camp ground.</p>
vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.	This condition is difficult for the Agricultural Society to monitor and enforce.

In relation point 2 of motion 7557, Licensed Caravan Parks and Camping Grounds within the Shire are inspected by Environmental Health Officers at least annually.

In 2009, staff undertook a thorough audit of caravan parks following concerns that many were operating outside of their license and in contravention of the regulations. Problems were found at most Caravan Parks and this was presented to Council at its briefing on 9 March 2010. Most issues related to the number of sites being occupied and this affected their licensing for 2010/2011. The Kununurra Agricultural Society caravan park was included in the audit and there were a number of non compliances identified. A follow-up inspection was carried out on 22 July 2010.

In August 2010, the Shire received three written complaints regarding the Agricultural Society's Caravan Park and Camping Ground License. The complainants question how a license was issued without compliance with the applicable Regulations, and why there is a need for them to operate outside of the peak tourist season.

The fact that the caravan park does not comply with the legislation and is operating for the entire year is an issue of concern for Council.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

The resolution of 21 November 2006 has the effect of licensing the Kununurra Agricultural Society caravan park for a full year and this was done contrary to requirements of the legislation.

Section 7 of the Act sets out how an application for license as a caravan park must be made, being:

1. An application made to the local government on the prescribed form.
2. Payment of the prescribed fee.
3. Provision of any information that the local government reasonably requires for a proper consideration of the application.

In addition, Section 7 states that a local government may grant or renew a licence and at any time may impose conditions on that license.

Any application for a permanent caravan park, amendment to an existing license or addition to an existing caravan park would require the provision of properly drawn to scale plans and specifications detailing and showing that the proposed facility complies with the Act and Regulations.

Legal advice obtained specifically in relation to this matter is provided at Attachment 1.

POLICY IMPLICATIONS

Clause 54 of the Regulations allows a local government to license caravan parks with lesser facilities for a temporary period. A draft policy on the licensing of temporary camp grounds was brought to Council at its Ordinary Meeting on 20 April 2010. At that meeting approval was given to advertise the draft policy for comment. A copy of the draft policy CPHTH-3762 Licensing of Temporary Camp Grounds is provided as Attachment 2.

Due to the comments received and sensitive nature of the matter, the policy has not yet been brought back to council for final adoption. Further consultation with existing caravan park operators will occur early in 2011 to review issues raised, prior to it being considered for adoption by Council.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this matter.

STRATEGIC IMPLICATIONS

Governance: Compliance with legislative requirements.

COMMUNITY CONSULTATION

No community consultation has occurred with respect to this matter.

COMMENT

Outside the peak tourist season, the need to provide a facility for big rigs and travellers with pets is unnecessary as there are two caravan parks that accept pets and there are ample sites in permanent caravan parks for large rigs.

All caravan parks were visited by an Environmental Health Officer in the first week in September 2010 and it was clearly evident that there was ample room to accommodate large rigs. The caravan parks were also operating well below capacity. Therefore the need for the Kununurra Agricultural Society Caravan Park to be licensed for a full year to accommodate large rigs and pets cannot be justified.

The author of the agenda item of 21 November 2006 noted that there is no such category as a Temporary License in the legislation. Whilst this is correct, the Regulations do allow for Council to license a caravan park for a temporary period. This means that it is licensed as a Caravan Park and Camping Ground but the period of the license is restricted. A policy was developed earlier in the year to ensure consistency in the way temporary camp grounds were licensed. The draft policy can be used as a guide, but will be subject to revision early 2011.

The Kununurra Agricultural Society has not yet been issued with their Caravan Park and Camping Ground license for 2010/2011. Officers wanted to resolve the outstanding compliance matter before doing so.

ATTACHMENTS

Attachment 1 – Legal advice regarding the approval of the Agricultural Society as a Caravan Park and Camping Ground

Attachment 2 – Shire of Wyndham East Kimberley Draft Policy CPTH-3762 Licensing of Temporary Camp Grounds

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground license for 30 short term sites until 30 June 2011.
2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or
 - b. A temporary park in accordance with Council policy.

COUNCIL DECISION

Minute No: 9369

Moved: Cr J Moulden

Seconded: Cr J Parker

That Council:

- 1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground License for 30 short term sites until 30 June 2011, subject to the approval of Minister for Regional Development and Lands.**
- 2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;**
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or**
 - b. A temporary park in accordance with Council policy.**

CARRIED UNANIMOUSLY: (7/0)

ATTACHMENT 1 - Legal advice regarding the approval of the Agricultural Society as a Caravan Park and Camping Ground

CIVIC LEGAL

Local Government Lawyers

Our Ref: GM/PM/C556
Your Ref:

1 September 2010

By Post and Email Ken.Lowth@swek.wa.gov.au

Environmental Health Officer
Shire of Wyndham East Kimberley
PO Box 614
KUNUNURRA WA 6743

Attention: Ken Lowth

Dear Sir

Kununurra Agricultural Society Caravan Park & Camping Ground Licence


We refer to the above and your telephone conversation with Greg Mohen of our office and subsequent emails on 31 August 2010.

We confirm your instruction that:

1. In 2001 the Shire of Wyndham-East Kimberley ("SWEK") by Council resolution approved the issue and use of an annual Caravan Park & Camping Ground Licence ("the Licence") to the Kununurra Agricultural Society ("KAS") to use the Kununurra Agricultural Oval as a caravan park (the Caravan Park).
2. The Licence is up for renewal on 30 June of each year. Historically, the SWEK have just sent the KAS invoices for the licence renewal that have been paid.
3. We understand that an invoice for the renewal of the Licence was posted to the KAS on 28 May 2010, and that it was paid on 9 June 2010. KAS did not make a formal application for the renewal of the Licence.
4. The Caravan Park does not comply with the requirements previously imposed on the park, nor is it up to the standards required by the guidelines.
5. The two private caravan parks and the Caravan Park Association have complained to SWEK that the KAS should not be allowed to operate a non-compliant park and, further, should be limited to 1 April to 31 October each year, this being the tourist season when there is demand for more caravan park bays.
6. You wish to be able to accommodate the concerns expressed by the Caravan Park Association and impose various conditions on the licence. You request our advice

PARTNERS	CONSULTANTS	ASSOCIATES	SPECIAL COUNSEL
Gavan Kelly John Wojtowicz Anthony Quah	Greg Mohen Brenton Oakley Alison Gibson	Christina Chang Matthew Reid Sze-Hwei Yen	Andrew Read

Registered Migration Agent No.: 9254761

 A member of the Simpson Kelly Group

Civic Legal Pty Ltd
ACN 114 272 758

whether you may now impose conditions on the Licence as part of the licence renewal process.

Our Advice

1. Caravans Parks and Camping Grounds Act 1995

- 1.1 Under section 6(1) of the *Caravans Parks and Camping Grounds Act 1995* ("the **Act**") a person must not operate a facility of a prescribed type, unless the person holds the appropriate licence under the Act.
- 1.2 Regulation 41 of the *Caravan Parks and Camping Grounds Regulations 1997* ("the **Regulations**") prescribes (amongst other things) caravan parks and camping grounds for the purposes of section 6(1) of the Act.
- 1.3 A local government has to power to grant, renew, or transfer a caravan park and camping ground licence; regulation 42 of the Regulations.
- 1.4 The procedure for an application for a licence (or its renewal) is set out in section 7 of the Act, reproduced below for ease of reference:

7. Application for the grant or renewal of a licence

- (1) An application for the grant or renewal of a licence for a facility is to be —
 - (a) made to the local government in the appropriate prescribed form;
 - (b) accompanied by the appropriate fee prescribed; and
 - (c) accompanied by any information that the local government reasonably requires for a proper consideration of the application.
- (2) An applicant is to provide the local government with any further information that the local government by notice in writing requires the applicant to provide in respect of an application.
- (3) An applicant must, if required to do so by the local government, verify by statutory declaration any information contained in, or given in connection with, an application.
- (4) Subject to this section, a local government may grant or renew a licence and at any time may impose conditions on that licence.
- (5) Before granting a licence a local government must ensure that —
 - (a) the applicant has complied with the requirements of this Act;
 - (b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.

- (6) A local government may refuse to renew a licence if—
- (a) the licence holder has been convicted of an offence against this Act or any other written law relating to caravanning or camping which, in the opinion of the local government, renders the licence holder an unsuitable person to hold a licence;
 - (b) a condition imposed on the licence has been contravened; or
 - (c) the licence was obtained by fraud or misrepresentation.
- (7) Where a local government refuses to grant or renew a licence it must give notice in writing of that decision to the applicant.
- (8) Notice of a decision under this section is to state that the applicant or licence holder is entitled to apply to the State Administrative Tribunal for a review of the decision.
- (our emphasis)

The prescribed fee

- 1.5 Regulation 45(1) of the Regulations sets out the prescribed fee for an application for the grant or renewal of the licence (in this case \$200).
- 1.6 Regulation 45(2) of the Regulations provides that if an application for the grant or renewal of a licence is refused, the application fee is to be refunded to the applicant. The Regulation therefore contemplates that the licence fee may be invoiced and paid prior to an application being considered by SWEK, and subsequently accepted, rejected, or approved with conditions.
- 1.7 The fact that SWEK has already invoiced the KAS for the licence fee renewal (and this has been paid) will not, in our view, compromise SWEKs ability to require the KAS to now make an application for the licence renewal in the prescribed form, and to accept or reject that application or impose conditions on the renewal of the licence. The fee is to be refunded to KAS in the event the application for the licence renewal is rejected (subject to KAS lodging an appeal to the State Administrative Tribunal ("SAT")).

The prescribed form of application

- 1.8 Section 7(1)(a) of the Act provides that an application for the grant or renewal of the licence "is to be made" to the local government in the "prescribed form". Use of the words "*is to be made*" implies an imperative. The KAS may only make an application for the licence renewal in the "prescribed form".
- 1.9 Regulation 43(1) of the Regulations provides that an application for the grant or renewal of a licence is to be made in the form of Form 1 (set out in schedule 1 of the Regulations). We **enclose** a copy of Form 1 for ease of reference.

- 1.10 The issuing of the invoice by SWEK to the KAS for the licence renewal (and payment of the same) may not, in our view, constitute a valid application for the licence renewal. It is not in the prescribed form.
- 1.11 We consider that SWEK may now require that the KAS make the application for licence renewal using the prescribed Form 1, following which the SWEK may accept or refuse the application, or impose conditions.
- 1.12 Section 9(1) of the Act (Renewal after expiry) allows the local government to renew a licence despite the fact that it has expired. Under section 9(2) the licence is then taken to have been renewed that day in which the renewal was in fact effected.

Caravan park operators must comply with the Act and Regulations

- 1.13 Section 7(5) of the Act imposes a positive duty on the SWEK (and any other local government) to ensure that that the licence applicant has complied with the requirements of the Act before granting a licence. On the information we have before us, this does not appear to have occurred when the licence was originally granted in 2001. We consider the obligations under section 7(5) reinforces the duty of local government to ensure that the caravan park operators abide by (and continue to abide by) the Act and Regulations.
- 1.14 The caravan park licence to the KAS by the SWEK in 2001 may have been deficient in both content and form. KAS may have been allowed, as a consequence, to act outside the Act and Regulations.
- 1.15 It appears that at the time of granting the licence to the KAS the SWEK did not have a complete understanding of the Act and Regulations. We consider that, given the positive duty to act (express and implied) under section 7(5) of the Act, SWEK has a positive duty to rectify its previous error/misconception (if any) and act to now ensure that any caravan park is operated within the requirements of (amongst other things) the Act and Regulations. This may require that new conditions be imposed on an existing caravan park licence.

Conditions may be imposed at any time

- 1.16 Under section 7(4) of the Act, a local government may grant or renew a licence and, at any time, may impose conditions on that licence. We consider that SWEK clearly may impose conditions on the licence as part of its approval of the licence renewal application by the KAS.
- 1.17 Section 7(6) of the Act provides that a local government may refuse to renew a licence if the licence holder has been convicted of an offence, a condition imposed on the licence has been contravened, or the licence was obtained by fraud or misrepresentation. The word "may" implies that the local government has a discretion whether to so act or not. In our view section 7(6) is not meant to be an exhaustive list, but merely a guide. If the intent was that these three occurrences were to constitute the only grounds for the refusal of a licence renewal, the section would have been drafted as "the local government may

refuse to renew a licence only if –". SWEK may elect to refuse to renew any application for a licence on grounds other than those listed in section 7(6) of the Act.

- 1.18 In any event, in the current circumstances SWEK is seeking to put conditions on the licence, as opposed to refusing the licence renewal application. If SWEK elects to refuse to renew the licence, then it must give written notice of that decision to the applicant; section 7 of the Act.
- 1.19 We note by way of observation that a local government may issue a temporary licence for a facility which is to remain in force for such period of less than one year as is provided in that licence; regulation 54 of the Regulations.

Appeal at the SAT

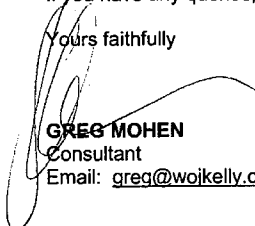
- 1.20 A decision by the SWEK to impose conditions on the licence renewal (or to reject the licence renewal application) is subject to an appeal at the SAT by the aggrieved applicant.

2. Options for SWEK

- 2.1 SWEK may require that KAS make an application for the renewal of licence using the prescribed Form 1. In our view the issuing of the invoice to the KAS (and payment of the same) may not constitute the renewal of the licence. The Act contemplates that such payment may be made prior to the consideration of a licence renewal application by a local government.
- 2.2 The SWEK may then impose conditions on the licence as part of its approval process.
- 2.3 We consider that the SWEK may feasibly take the approach with the KAS that it is in fact doing all that it can to assist KAS in retaining the Licence, given the opposition voiced by the Caravan Park Association and local caravan parks, and the fact that the licence should not perhaps have been granted in its current form, and the powers of the SWEK to impose conditions under the Act, and SWEK's positive obligations to so act.
- 2.4 SWEK may, in any event, issue infringement notices to the KAS pursuant to the Act for any infringement of the requirements of that Act and the Regulations.

If you have any queries, please do not hesitate to contact the writer.

Yours faithfully


GREG MOHEN
Consultant
Email: greg@wojkelly.com.au

Form 1. Application for Grant or Renewal of Licence

Caravan Parks and Camping Grounds Act 1995, sec. 7(1)(a)
**APPLICATION FOR GRANT
 OR RENEWAL OF LICENCE**

To	Local government:
Facility name or proposed name	

Applicant/s <small>[Each applicant to provide these details.]</small>	Family name:		
	Other names:		
	Postal address	No.:	Street name:
		Suburb:	Postcode:
	Phone numbers (H):		(W):
	Fax number:	Email:	

Land on which the facility is situated or is to be situated	Address: or Land description:
--	-------------------------------------

Land owner/s <small>[1. Only necessary if applicant does not own the land referred to above. 2. Details to be provided in respect of each land owner.]</small>	Family name:		
	Other names:		
	Postal address	No.:	Street name:
		Suburb:	Postcode:
	Phone numbers (H):		(W):
	Fax number:	Email:	

Declaration <small>[Making a false statement may be an offence]</small>	I/We declare that all details in this form are true and correct.	
	Signature of applicant/s:	Date:

ATTACHMENT 2 – Shire of Wyndham East Kimberley Draft Policy CPHTH-3762 Licensing of Temporary Camp Grounds



Shire of Wyndham East Kimberley Council Policy Number: CP/HTH-3762 Licensing of Temporary Camp Grounds

OBJECTIVE:

- To provide guidelines on the approval of temporary camp grounds within the Shire of Wyndham East Kimberley

POLICY:

Scope & Limitations

This policy applies to all locations within the Shire of Wyndham East Kimberley.

The following are defined in the *Caravan Parks and Camping Grounds Regulations 1997*;

- 'Long Stay Site' means a site at a caravan park which is to be occupied consecutively by the one person or group of persons for any period of time
- 'Short Stay Site' means a site at a caravan park which is to be occupied consecutively by the one person or one group of persons, for no longer than 3 consecutive months
- 'Camp Site' includes to camp in a vehicle but not caravans.
- 'Overflow Site' may only be used with the approval of the local government, for a period of time specified in that approval, and in accordance with any conditions placed on that approval

Background

The *Caravan Park and Camping Grounds Regulations 1997* give discretion to Local Government on the granting of temporary licences for caravan parks and camping grounds.

Section 54 of the regulations states;

- "(1) A local government may grant a temporary licence for a facility which is to remain in force for such period of less than one year, as it provided in the licence.;
- (2) A local government is to endorse on a temporary licence for a facility as conditions of the licence-
- (a) The maximum number of sites that may be used at the facility;
 - (b) The maximum number of sites of particular types that may be used at the facility; and
 - (c) The services that are to be provided

Guiding Statement

1. TENURE

An application for a temporary facility must demonstrate legal entitlement or signed written permission from the owner to occupy the land.

2. NEED

The applicant shall detail the need for a temporary facility with particular due regard to;

- Providing justification for the temporary facility (why is it needed, who are the main users)

- Impact on existing caravan park and camping ground establishments within a 50km radius

3. ENVIRONMENT

The design and location of a temporary facility must be sensitive and complimentary to environmental areas. Where there are concerns regarding the impact of a proposal on environmentally sensitive areas, the Shire may seek comment from the Environmental Protection Authority, Department of Environmental and Conservation, or equivalent, prior to determining the application.

4. AMENITY

The Shire accepts that lower levels of amenity than those which could be typically expected within a permanent holiday or caravan park. However, all applications should as a minimum accord with standards prescribed in this policy and any other environment, health and building legislation.

5. SPECIFIC APPLICATION DETAIL

The following shall be provided with the application for a temporary facility licence:

- 2 sets of accurately scaled and dimensioned layout plans, site layout plans and floor plans of buildings or facilities
- The number of sites
- The maximum number of people expected to use the facility
- Information on how each of the minimum requirements set out in this policy are to be addressed and how the facility will be managed
- Details of any consultation with local businesses, community groups or government agencies
- Dates of operation

6. FEES

Fees for operating a temporary caravan and camping ground licence are determined in 'Schedule 1 Fees' of the *Caravan Park and Camping Grounds Regulations 1997*.

7. MINIMUM REQUIREMENTS

Applications should demonstrate that the Nature Based camping facility meets the following minimum requirements:

7.1 ABLUTIONS

Ablution facilities shall be provided in accordance with the following table;

Sites	Toilets	Showers	Handbasins
1-10	2	2	2
11-20	4	2	2
20-30	4	4	4
30-40	6	4	4
40-50	6	6	6
50-60	8	6	6

Ablutions may either be stand alone unisex facilities or split 50/50 for male and female use.

- Temporary ablutions must be pumped out on a regular basis.
- Permanent ablutions must be connected to an on-site effluent disposal system approved by Shire's Environmental Health Officer.

It is the responsibility of the facility licence holder to ensure that ablutions are maintained in a clean and suitable manner.

Laundry and washing up facilities are not required.

7.2 WATER

There must be a centrally located tap with running water for use by all occupiers. A tap must be no more than 90m from any campsite.

Where a potable supply of water cannot be provided, taps must be clearly signed with the following or similar.

<p>"WARNING"</p> <p>WATER SUPPLY IS NOT TREATED AND MAY NOT COMPLY WITH AUSTRALIAN DRINKING WATER GUIDELINES"</p>
--

Where drinking water is not provided, all occupiers must be clearly notified prior to staying at the facility.

7.3 ELECTRICITY

Generators to 2kw are permitted between the hours of 7am and 9.30pm

7.4 RUBBISH

While rubbish bins are not required to be provided, advertising and notice to campers arriving at the site must be provided through approved signage advising that campers must take their own rubbish with them and where they may deposit it.

If bins are provided they shall be located within 90m of every site and emptied as necessary, but at least once a week.

Rubbish bins are to be sealed to prevent infestation from insects and vermin.

7.5 FIRE FIGHTING EQUIPMENT

Where a facility's water supply is not adequate to operate fire hoses effectively, the facility must have:

- fire extinguishers accessible at all times within 90m of every site; or
- a portable fire fighting unit with a minimum capacity of 1000L, which must be full and easily accessible at all times. The operational capacity of a fire fighter unit shall be demonstrated upon request by the Shire's Fire Control Officer or a FESA representative.

7.6 SETBACKS

Camp area shall be clearly defined and marked so it is clear to users where they shall and shall not camp.

There shall be no more than ten (10) people permitted to camp on a site at any one time

A maximum of one caravan, bus, campervan or tent is permitted per site.

A minimum of 3m is required between caravans, buses, campervans and tents on different sites.

Caravans, buses, campervan and tents must be set back at least 5m from the road.

7.7 CARETAKER'S RESIDENCE

A caretaker may reside at the temporary facility for the term of the temporary license.

If a caretaker is not on-site then an emergency point of contact must be nominated and provided to each occupier of the facility.

7.5 ADVERTISING AND COMMERCIAL ACTIVITIES

Advertising the temporary facility is not permitted.

Patrons are not permitted to conduct commercial or profit-making business activities within the temporary facility.

8. LICENCE

Temporary facilities will only be issued a license from the Shire of Wyndham East Kimberley once an Environmental Health Officer has inspected the site and determined that the facility meets minimum standards.

Outcomes

This policy has been developed to formalise existing temporary camping arrangements and provide guidance for their approval in the future. It aims to provide an acceptable standard of amenity for campers staying within a temporary facility. It provides guidance to staff, Councillors, government agencies, business owners, and the general public regarding the assessment and application of temporary camp facilities.

GOVERNANCE REFERENCES

Statutory Compliance	Caravan Parks and Camping Grounds Act 1995 Caravan Parks and Camping Grounds Regulations 1997
Industry Compliance	
Organisational Compliance	Delegations Manual
Process Links	

POLICY ADMINISTRATION

Directorate		Officer Title		Contact:	
Development Services		Environmental Health Officer		Ext: 118	
Date Effective	TBA	Last Reviewed		N/A	
Date Adopted	TBA	Review Cycle	Tri-Annual	Next Due	TBA
Risk Rating	Low				

12.4.2 Application for Temporary Caravan Park - Kununurra Agricultural Society

DATE:	21 February 2012
PROPONENT:	Kununurra Agricultural Society Inc
LOCATION:	Reserve 29799, Lot 77 Coolibah Drive Kununurra
AUTHOR:	Kelly Cripps, Senior Environmental Health Officer
REPORTING OFFICER:	Nick Kearns, Director Development Services
FILE NO:	PH.12.5
ASSESSMENT NO:	2153

PURPOSE

For Council to consider an application by the Kununurra Agricultural Society to operate a temporary caravan park on Reserve 29799. The application is made with request to allow 6 long term sites, a variation of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.

BACKGROUND

An audit of all caravan parks in Kununurra and Wyndham was conducted in 2009 after inconsistencies were found in licensing during routine inspections. The audit found that many parks were operating more sites than was legally allowed under the *Caravan Park and Camping Ground Regulations 1997*. Since then, Shire's Environmental Health Officers have been working closely with operators to ensure all comply with the Regulations.

The Kununurra Agricultural Society's Camp Grounds came under particular attention during the audit as it was determined that they were operating outside of the approval granted on 21 November 2006.

Minute No 7557

Moved: Cr K Wright

Seconded: Cr J Buchanan

1. ***That Council enter into negotiations with the Kununurra Ag Society to implement new licence subject to the following provisions:***
 - i. ***The number of long term bays shall be no greater than 10.***
 - ii. ***The number of short term bays shall be no greater than 30.***
 - iii. ***The maximum stay for short term bays shall be three months [as per the Regulations].***
 - iv. ***The caravan park may operate between April 1st and November 30th. After this period the caravan park may only be occupied by the caretaker, and any caravaner or camper that cannot gain entry to another caravan park or camping ground due to ownership of pets or are vehicles are too large to gain entry to an alternate park.***
 - v. ***Only travellers with pets or large vehicles may occupy a bay at the caravan park /camping ground, except during the months of June, July and August when it shall not be necessary to have a pet or large vehicle to occupy the caravan park/camping ground.***

- vi. Priority shall be given to owners of pets and/or large vehicles at all times the park is open.**
- 2. That Council direct Council officers to investigate compliance with the Caravan Parks and Camping Grounds Regulations 1997 for all other caravan parks in the Shire.**
- 3. Council delegate to CEO to achieve a negotiated outcome within the provisions of this recommendation.**
- Carried Unanimously: 7/0**

The matter was brought to Council to consider on 14 December 2010 and the following motion was passed.

- COUNCIL DECISION**
- Minute No: 9369**
- Moved: Cr J Moulden**
Seconded: Cr J Parker
- That Council:**
- 1. Issues the Kununurra Agricultural Society with a Caravan Park and Camping Ground License for 30 short term sites until 30 June 2011, subject to the approval of Minister for Regional Development and Lands.**
 - 2. Advises the Kununurra Agricultural Society that prior to expiration of the license on 30 June 2011 it will be necessary for them to make application for approval to operate either;**
 - a. A caravan park and camping ground in accordance with the Act and Regulations; or**
 - b. A temporary park in accordance with Council policy.**
- CARRIED UNANIMOUSLY: (7/0)**

Representatives from the Kununurra Agricultural Society have since met with Council Officers on numerous occasions to address Council's decision.

On 21 December 2011 an application was received from the Kununurra Agricultural Society to operate a temporary park with 6 long term sites.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)
Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

Clause 54 of the Regulations allows Local Government to license caravan parks with lesser facilities for a temporary period

POLICY IMPLICATIONS

Council Policy CP\HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds was adopted by Council at its ordinary meeting on 21 June 2011.

FINANCIAL IMPLICATIONS

The Kununurra Agricultural Society has paid the annual license fee of \$200.00 to operate a caravan park and camping ground in the 2011/2012 financial year. This fee is determined by the *Caravan Park and Camping Ground Regulations 1997*.

The fee for a temporary facility is also determined by the regulations and is \$100 or a pro rata amount payable for a normal license.

STRATEGIC IMPLICATIONS

The strategic implications of this report are overarching compliance to the *Shire Wyndham East Kimberley Strategic Plan 2008*.

This report aligns with Council's focus on Governance, Key Result Area 5, in the *Shire of Wyndham East Kimberley Strategic Plan 2008*.

- Council decisions are consistent with policies and strategies
- Council accepts responsibility for decisions

COMMUNITY CONSULTATION

Council Officers have had regular contact with members from the Kununurra Agricultural Society to assist them in preparing an application.

COMMENT

In the past 2 years Council has adopted 3 policies relating to caravan and camping legislation. The aim of this has been to minimise individual interpretations and set clear boundaries for what is expected from existing facilities and those wanting to provide an alternative camping solution.

With regard to the Kununurra Agricultural Societies application;

1. The ablutions are adequate for 40 sites in a temporary facility, which the Agricultural Society has applied for. All other amenities such as water, power, rubbish facilities, fire fighting equipment and setbacks have been met.
2. The application requests dates of operation to be from 1 April – 30 November each year (8 months). These dates were agreed to by Council in the initial approval on 21 November 2006.
3. The Agricultural Society has applied for 6 long term sites to be used all year round. The original approval from November 2006 stated that only those who could not gain entry to another caravan park or camping ground due to ownership of pets or large vehicles could remain at the grounds outside of the 1 April - 30 November. Some of the current long term occupants do not have pets and could fit at other parks, therefore there is no need for them to be at the Agricultural grounds.

With regard to pet ownership; there are now at least two caravan parks in Kununurra that accept pets.

On the matter of large vehicles; most parks have less than 50% occupancy of sites from 1st December to 31st March and therefore large vehicles should be able to be accommodated elsewhere.

In addition item 8.1 of Council Policy CP/HTH-3762 states;

“Only short stay and camp sites will be approved at a temporary caravan park and camping ground.

Long stay sites and overflow sites will not be approved at a temporary caravan park or camping ground.”

An important consideration when approving a temporary camping facility is the determination of ‘need’. This policy requires applicants to detail justification for the facility (why it is needed and who the main users are), and the impact it is likely to have on caravan parks and camping grounds within a 50km radius.

Previous justification for approving the Kununurra Agricultural Society as a camp ground was the need for a facility that could fit big rigs and allowed pets. This is no longer justified.

The need for a temporary facility could be justified from 1 April to 30 November due to peak tourist numbers and sites for seasonal workers. It should be noted however that the Agricultural Society requires occupants to vacate for a week during the peak tourist period in the July school holidays so they may run the annual Agricultural Show. This puts immense pressure on other caravan parks and creates illegal camping problems in other areas of town.

There is no mention of impact on other caravan parks and camping grounds in the Kununurra Agricultural Societies application.

The Kununurra Agricultural Society has indicated they would like to work towards an application for a permanent caravan park in the future however there are a number of matters that need to be addressed prior to this occurring;

1. A planning application for use of the site as a caravan park and camping ground must be submitted and approved.
2. Facilities need to be upgraded to ensure full compliance with the *Caravan Park and Camping Ground Regulations 1997*. This includes;
 - a. Provision of a hard stand for every long stay site;
 - b. Toilets and showers must be located within 90m of every site;
 - c. The ablutions provided would only allow for a maximum of 30 sites to be approved in accordance with the regulations. A 10 site reduction should they remain licensed as a temporary facility;
 - d. All long stay sites are to have a separate meter to record the electricity.
 - e. Each caravan site is to be no more than 10m from a sullage waste dump point and a camp site to be no more than 30;
 - f. In addition there are minor items such as providing recreational areas protected from the weather, showers to be provided with permanently affixed seats, an accessible baby’s bath and additional laundry troughs.

It should be noted that these are outstanding items from an inspection conducted in 2011 and some may have since been dealt with.

ATTACHMENTS

Attachment 1 – Application for a temporary camp ground park made by Kununurra Agricultural Society

Attachment 2 – Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1) Approves the Kununurra Agricultural Society to operate a Temporary Caravan Park in accordance with Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds from 1 April to 30 November each year, with a maximum of 40 short stay sites and 5 camp sites (as depicted on the site plan provided).
- 2) Refuses the application for long term sites, being inclusive of 1 December to 31 March each year, due to there being insufficient justification, in accordance with clause 8.1 of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.

Cr D Auburn and Cr R Dessert declare Impartiality Interest in the item as life members of the Kununurra Agricultural Society.

Dominique Breig enters the Public Gallery at 6.06pm.

Moved: Cr K Torres

Seconded: Cr R Addis moves the Officer's Recommendation with minor adjustments to include "This excludes any approved caretaker dwelling" at the end of dot point 1.

COUNCIL DECISION

Minute No. 9709

Moved: Cr K Torres

Seconded: Cr R Addis

That Council:

- 1. Approves the Kununurra Agricultural Society to operate a Temporary Caravan Park in accordance with Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds from 1 April to 30 November each year, with a maximum of 40 short stay sites and 5 camp sites (as depicted on the site plan provided). This excludes any approved caretaker dwelling.**
- 2. Refuses the application for long term sites, being inclusive of 1 December to 31 March each year, due to there being insufficient justification, in accordance with clause 8.1 of Council Policy CP/HTH-3762, Licensing of Temporary Caravan Parks and Camping Grounds.**

Carried unanimously 8/0

R Addis declared financial interest in Item 12.4.6 Local Planning Strategy Review – Rural Residential and Rural Smallholdings Development and leaves room at 6.08pm.

Attachment 1 – Application for a temporary camp ground park made by Kununurra Agricultural Society



KUNUNURRA AGRICULTURAL SOCIETY (Inc.)

President: Bruce Carey Ph: 0437 486 787
Support Officer: Fina Halmos-Byrneson Ph: 0407 320 816
Treasurer: Kerry Grandison Ph: 0438 863 014

PO Box 271
Kununurra WA 6743
Ph: 08 9168 2885
Fax: 08 9168 2886
Email: KnaAgS@westnet.com.au
Website: www.kas.org.au

Wednesday 21 December 2011

Kelly Cripps
Senior Environmental Health Officer
Shire of Wyndham East Kimberley
PO Box 614
Kununurra WA 6743

Dear Kelly

Application for a Temporary Caravan Park

Please find attached an application for a Temporary Caravan Park at the KAS site with specific requests for variation from Policy CP/HTH-3762.

It is the intention of the committee to work towards an application for a permanent caravan park in the near future, however in the interim we wish to operate as a Temporary Facility.

If you have any questions in relation to this matter please contact me on the number below.

Kindest Regards

Fina Halmos-Byrneson

Fina Halmos-Byrneson
Society Support Officer | Kununurra Agricultural Society
Phone: 08 9168 2885 | Email: knaags@westnet.com.au
PO Box 271, Kununurra, WA, 6743 | Website: www.kas.org.au
Office Attended: Mon - Fri 2pm-6pm

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Kununurra Rural Traders / Kununurra Pest Management www.krtc.com.au

Application

Tenure – current lease expires 30 June 2012 - have commenced negotiations with Shire of Wyndham East Kimberley for a new lease – minimum 10 year tenure.

2 sets of accurately scaled plans, site layout and floor plans of associated buildings and facilities

Number of sites requested – 40, including caretaker and 6 long term sites to enable existing long term tenants to remain (as per the assurance of Council to maintain the status quo of the KAS and its caravan park)

Max number of people on site: as per the policy no more than 10 pax per site – at maximum 400 however based on previous year's experience we anticipate maximum onsite numbers of 250 at any given time.

Consultation: Local letters of support needed – KVC, Chamber of Commerce, Employers of long termers?

Dates of Operation:

- 1 July 2011 – 30 November except for 6 long term sites which we request year round (or as long as employed by a local employer + 4 weeks leeway)
- 1 April to 30 June except for 6 long term sites which we request year round (or as long as employed by a local employer + 4 weeks leeway)

7. Minimum Requirements:

7.1 Ablutions – provided in accordance with the policy 6 toilets, 4 showers and 4 hand basins. All ablutions are connected to deep sewerage.

7.2 Water – A centrally located tap with running water for use by all occupiers, no more than 90m from any site – as shown on the site plan. One source of non-potable water is clearly signed as per the policy

7.3 Electricity – Mains powered sites and non-powered sites offered

7.4 Rubbish – rubbish bins are provided and located within 90m of each site as per the site plan and emptied twice each week. Rubbish bins all have lids.

7.5 Fire Fighting Equipment – fire extinguishers are accessible at all times within 90m of each site

7.6 Setbacks

- Sites are clearly defined and marked as per the site plan.
- There shall be no more than **10 people** per site at any one time
- A maximum of one caravan, bus, campervan or tent is permitted per site
- A minimum of 3m is kept between caravans, buses, campervans and tents on different sites
- All sites are set back a minimum of **5m** from the road

7.7 Caretakers Residence – a caretaker will reside onsite for the period of the temporary licence and is the emergency point of contact for each occupier.

7.5 Advertising and Commercial Activities – the temporary facility is not advertised and patrons are not permitted to conduct commercial or profit making business activity within the facility.



SHIRE of WYNDHAM | EAST KIMBERLEY

PO BOX 614 KUNUNURRA WA 6743

Our Ref: PH.09.5 O-19699

Cross Ref: A2153P

Enquiries: Louis Franks

T | 08 9168 4100

F | 08 9168 1798

E | mail@swek.wa.gov.au

W | www.swek.wa.gov.au

ABN | 35 647 145 756

4 November 2014

Ms A Thomson
 Kununurra Agricultural Society
 PO BOX 271
 KUNUNURRA WA 6743

Dear Anthea

INSPECTION OF KUNUNURRA AGRICULTURAL SOCIETY CARAVAN PARK, LOT 77 COOLIBAH DRIVE, KUNUNURRA, WA 6743

This is to confirm an inspection of the caravan park was carried out by Environmental Health Officers Louis Franks and Ebony Daniell on Thursday 16 October 2014 to assess the park following the proposal to change from a temporary Caravan Park to a licensed Caravan Park. The inspection was carried out to confirm compliance with the:

- Caravan Parks and Camping Grounds Act 1995
- Caravan Parks and Camping Grounds Regulations 1997

The Caravan Park was assessed under the requirements for a permanent licensed park and was found to be catering for:

- 30 short stay sites (maximum stay of three months)
- 10 overflow sites (1 June – 31 July only, maximum stay of 5 nights)
- No long stay sites are permissible with the current facilities (more than 3 months, this excludes the caretaker)

Compliance with the attached schedule of works is necessary before a license can be granted for a permanent park. An application form for the grant or renewal of a caravan park license is enclosed. This must be submitted accompanied by all required supporting documentation:

- Proof that the applicant is the owner of the proposed land or written approval from the owner to use that land **CP & CG Act 1995 Cl: 5 (7) (b)**
- A detailed site plan (completed by a draughtsperson) showing all sites, buildings, roads and paths, lighting, drainage and wastewater disposal systems, and locations of firefighting equipment including detailed specifications **CP & CG Act 1995 Cl: 7 (1) (c)**

Planning approval is required to operate as a permanent park and the Shire Planning Department should be contacted before proceeding.

Please be advised that subject to section 7, clause: 4 of the Caravan Park & Camping Grounds Act 1995 a local government may grant or renew a licence and at any time may impose conditions on that licence.

If you have any queries on these matters, please contact either Louis Franks or Ebony Daniell on 9168 4100.

Yours sincerely



Louis Franks
Environmental Health Officer

SCHEDULE OF WORKS**Kununurra Agricultural Society Caravan Park – Caravan Parks and Camping Grounds Act 1995 & Caravan Parks and Camping Grounds Regulations 1997**

Clause/ reg	Requirement of Regulations/Act	Action required
Sch 7 cl.19	There is to be at least one toilet and one shower within 90 metres of each site.	Sites 1-5 were more than the required 90 metres from the ablutions. These sites cannot be used unless designated as overflow. Sites numbered with (a) on the 2014 version 3 site plan can only be used as overflow from 1 June – 31 July.
Sch 7 cl. 24(c)	Each shower is to be enclosed in a cubicle which has a permanently affixed seat.	No fixed seat/bench in all shower cubicles. Install a fixed seat/bench.
Sch 7 cl. 25	Babies bath.	Baby changing bench provided in unisex disabled toilet. Additionally, a 45 litre capacity babies bath (stainless steel or other suitable material) to be installed.
Sch 7 cl. 26	Hand basin plugs, shelving, hot water.	Install plugs and fix/replace missing shelving above hand basins. Hand basins to be supplied with hot water (not less than 45°C).
Sch 7 cl. 27	Power points ablutions.	Install a power point at WC hand basins (Ag Society office ablutions only).
Sch 7 cl. 28	Coat hooks WC's.	Install coat hooks to WC doors.
Sch 7 cl. 29	Sanitary disposal units - each building on a facility which contains female toilets is to have at least one approved napkin disposal unit.	Install a minimum of 1 disposal unit per female ablution block.
Sch 7 cl. 46	Caravan site at a facility is to be no more than 10 metres from a sullage waste water dump point which is in accordance with the requirements of AS/NZS 3500.2.2, or the facility is to utilise other approved means of dealing with sullage.	Install sullage dump points within 10 metres of each site. Dump points must be connected to mains sewerage.

Sch 7 cl: 42 & 44	Potable water.	There is to be a tap connected to a supply of potable water within at least 10 metres of every short stay site on a facility, unless otherwise approved.
Sch 7 cl. 30	Laundry - Drain plug for trough.	Plugs to be supplied to all laundry troughs.
Sch 7 cl. 31	Camp kitchens x 2 – washing up facilities. Camping ground is to have at least one trough for the washing of utensils used for cooking and eating for each 20 camp sites.	Drain plug to be provided and hot water (45°C) to be supplied Troughs in campers kitchens to be connected to an approved effluent disposal system i.e. in accordance with AS/NZS 3500.2.2: 1996 “National Plumbing and Drainage. Sanitary plumbing and drainage - Acceptable solutions.”
Sch 7 cl. 33, 35, 36	<p>Fire extinguishers in a facility are to be in accordance with the requirements of AS 2444-1995 “Portable fire extinguishers — selection and location”. A facility is to have at least one extinguisher for every 6 sites. A facility is to have an extinguisher not more than 30 metres from each site, located in a central position in an area accessible to all persons in the facility.</p> <p>Fire equipment at a facility is to be accessible and ready for use at all times. Fire equipment at a facility is to be maintained in accordance with the requirements of Part 1 or 2, as is appropriate, of AS 1851 “Maintenance of Fire Protection Equipment”.</p> <p>All fire extinguishers are to be clearly displayed and mounted in accordance with “AS244-2001 Portable Fire Extinguishers & Fire Blankets”.</p>	Install fire extinguishers that are within 30 metres of each site (one per six sites). Ensure that fire extinguishers have clear signage and are mounted in an accessible location. Service fire extinguishers every 6 months. Plans are to detail locations.

Sch 7 cl.15	Roads to be constructed and maintained as approved.	Roads to be clearly marked and to be maintained. Entrance road to be 6 metres wide, one way roads 4 metres wide and two way roads 6 metres wide. Dust suppression to be carried out.
Sch 7 cl: 17(3)	Visitor parking.	A car park on a facility is to have at least one parking space per 20 caravan sites on the facility, and not less than 4 parking spaces in any event.
Sch 7 cl. 18	Recreation areas. Recreational facilities for children which are protected from the weather, and enclosed as is approved; and a building for communal or recreational activities, as is approved.	Pavilion to be open for recreational activities and to be fitted out with recreational equipment for adults and children.
Sch 7 cl. 8	There is to be at least 3 metres between a caravan, annexe or camp on a site in a facility and — (a) a caravan, annexe or camp on any other site; or (b) any building on the facility that is not on a site.	3 metres to be kept between caravans. Sites must be large enough for this requirement. Big rig sites to be identified on site plan.
Sch 7 cl. 13, 37, 43 & 46(2)	If a caretaker is on site for longer than 3 months then it is considered a long stay site. A long stay site is to have the following — 1. A hard stand for a vehicle other than the caravan or such additional amount of space as is approved on the side of the facility road next to the site for at least one such vehicle to park; 2. All long stay sites are to have a separate meter to record the electricity, if any, supplied to that site. 3. A tap or water connection point with a supply of potable water at every long stay site. A long stay site with a caravan which has ablution, toilet or laundry facilities is to have a sewage connection point which is in accordance with the requirements of AS/NZS 3500.2.2	A hard stand to be constructed for the resident caretaker caravan or parking area next to the long stay site developed. Compliance with water, sewerage and electricity requirements if applicable.

	Approval is required for the construction of: (a) a hard stand on a site; (b) an area under an annexe attached to an on-site caravan; and (c) an area under an annexe on a long stay site.	
r. 43	An application for the grant or renewal of a licence, is to be made as per section 7(1)(a) of the CP & CG Act 1995 (stated in cover letter)	Completed form and documents as described in form are to be attached to an application for a licence. A site plan is to be completed by a draughtsperson. This is to be approved by Council.
r. 48	Overflow area – plans.	Plans must show any overflow area and must not exceed their licensed capacity.
r. 44	Plans & specification approvals.	Once plans and specifications have been approved, there can be no change without Council approval.



**SHIRE OF WYNDHAM EAST KIMBERLEY
APPLICATION FOR GRANT OR RENEWAL OF LICENCE
CARAVAN PARKS AND CAMPING GROUNDS ACT 1995, s27**

FACILITY NAME OR PROPOSED NAME: _____

OWNER DETAILS

Name _____
 Postal Address _____ Post Code _____
 Phone _____ Fax _____ Email _____
 Contact Person _____
 Signature _____ Date _____

APPLICANTS DETAILS

Family Name _____ Other Name _____
 Postal Address _____ Post Code _____
 Phone _____ Fax _____ Email _____
 Contact Person _____
 Signature _____ Date _____

LAND OWNER/S

1. Only necessary if applicant does not own the land referred to above. 2. Details to be provided in respect of each land owner.

Name _____
 Address _____ Post Code _____
 Phone _____ Fax _____ Email _____

PROPERTY DETAILS

Lot No. _____ Street No. _____
 Street Name _____ Suburb _____
 Nearest Street Intersection _____ Assessment No. _____
 Address _____ Land description _____

Declaration (making a false statement may be an offence)

I/We declare that all details in this form are true and correct.

Signature of applicant/s: _____ Date: _____

Signature of applicant/s: _____ Date: _____

- 1) The written approval of the owner of the land referred to in this form for the applicant's to make this application, or proof that the applicant/s is/are the owner/s of that land.
- 2) A plan of the proposed facility showing –
 - a) the sites, and where applicable, denoting the types of sites;
 - b) the buildings;
 - c) the roads and paths;
 - d) the drainage and waste water disposal systems; and
 - e) the location of fire hoses, fire hydrants and extinguishers.

OFFICE USE ONLY

Date Received		Document No	
Fees Paid		Officer	
Receipt No		Response	
General Ledger Account		File	
EHO Approved		Licence Issued	

Letter of Intent.

Shire of Wyndham East Kimberley.

14th April 2015.

The Kununurra Agricultural Society intends to apply for a Permanent Caravan Park License to operate from the long term leased land at Lot 77 Coolibah Drive, Kununurra (Ag. Show Grounds), as a fund raising activity for the Annual Agricultural Show. A Temporary Caravan Park License Application has been simultaneously applied for to cover any time between the start of the Tourist Season and the approval of a Permanent Caravan Park License (Application for Planning Approval).

The Kununurra Agricultural Society intend to work openly and informatively with the Shire of Wyndham East Kimberley to rectify any issues we have here at the Ag. Show Grounds and Caravan Park. The existing Caravan Park was inspected by two (SWEK) Environmental Officers in November 2014, and was found to be catering for 30 Short Stay Sites, 10 Overflow Sites and One Long-Term Caretaker's Residence.

As outlined by the Inspection Report, the Kununurra Agricultural Society has been given a list of 20 Requirements to achieve Permanent Licensing. To date 14 of these have been actioned, the remaining six requirements are awaiting quotes from contractors, and funding acquisition. Please see the 'Schedule of Works' document provided.

The Sullage and Waste Water Disposal System is the high priority in our works project, this will commence as soon as funds are available. Please see the attached quotes to show our commitment and estimated expenses for the Sullage and Waste Water Disposal System requirements to be met. The largest and most expensive requirements such as the Sullage, and possible additional Ablution Blocks, require some time and funding through available Grants, to proceed past the Quotation Stage.

Being a non for profit group, the Kununurra Agricultural Society has started submitting Grant Applications. An application from the Kimberley Development Commission's Community Chest Fund (letter of received application provided) has been submitted and the Shire's Community Grants is being submitted shortly. Other Grant avenues are being viewed in relation to the parameters of each Fund e.g. LotteryWest, Regional Infrastructure Grants, to cover the major portion of the required Grounds improvements.

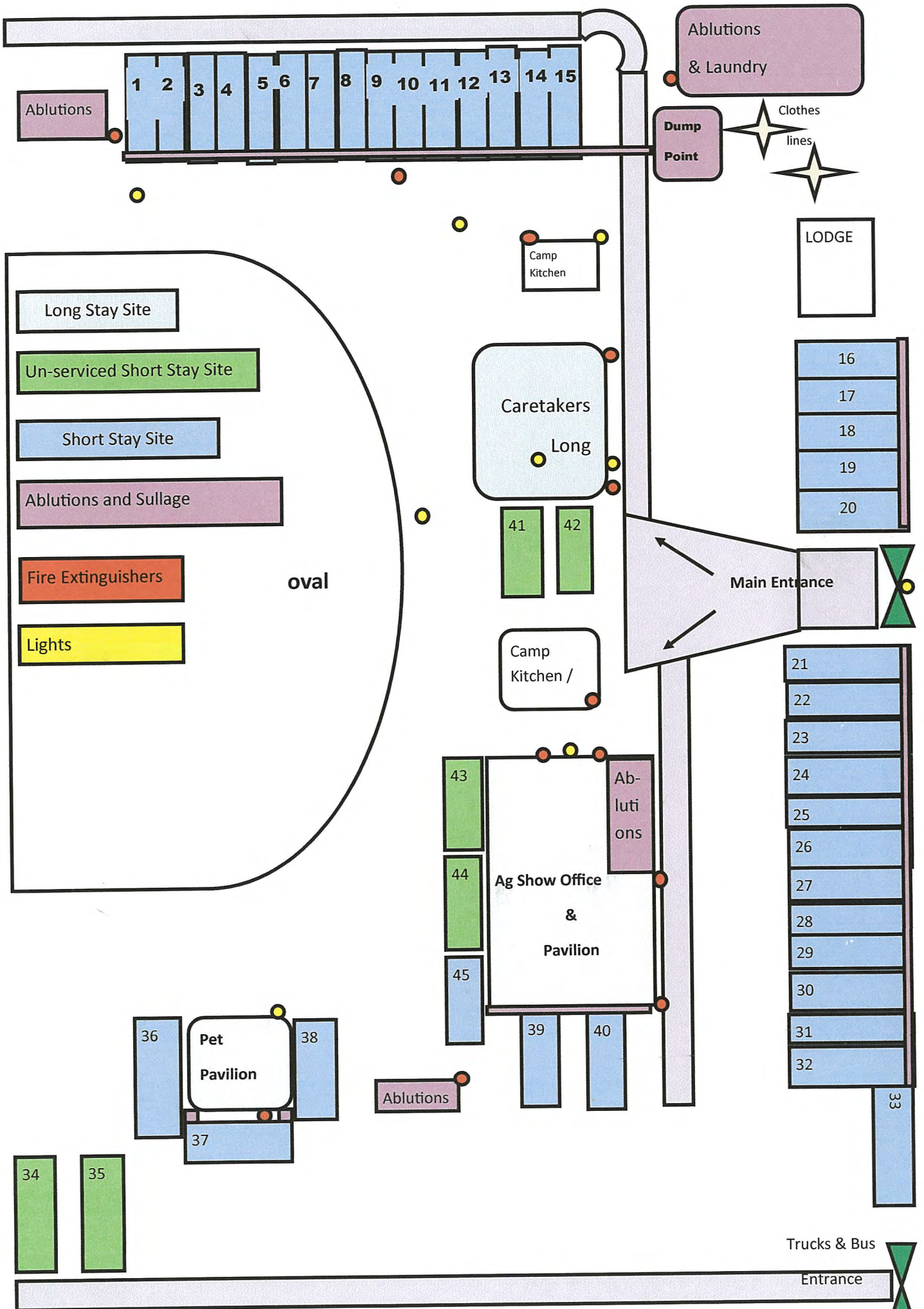
Caravan Sites 1 -5, and all 'a' sites near the Pet Pavilion (Please see enclosed map 'Caravan Park 2014') are to be designated Short Stay Un-Serviced Sites pending Shire approval, these sites would be used for caravans who have their own amenities and do not require ablutions, but do require power supply and sullage, as per clause 22b of the Caravan and Camping Regulations, 1997. Until such time as suitable Ablution Blocks can be constructed to meet the requirements of these Sites to be included as Short Stay Sites on a Permanent Caravan Park License (Please see attached map 'Caravan Park Temporary 2015'), and create improved facilities for the Annual Agricultural Show held on the grounds.

Opening the Main Pavilion as an 'All Weather Recreation Room to cater for Adults and Children', is a point of conjecture at the moment as the Committee maintain that for 30 sites, recreational facilities are more than catered for though open space and the two undercover areas part used as Camp Kitchens. History suggests that we have very few if any travelling caravan customers during the Wet Season, meaning large undercover areas are not required. Further discussions between the Shire and the Kununurra Agricultural Society are needed to clarify this requirement and how we proceed thereafter.

The remaining three outstanding requirements relate to the Application for our Permanent License, where we have to provide a detailed site plan (completed by a draughtsperson, we have a Site Plan from our Lease negotiations with the Shire, that will be used as the baseline plan) showing all sites, buildings, roads and paths, lighting, drainage and wastewater disposal systems, and locations of firefighting equipment including detailed specifications, will go out for quoting once a draft site plan is agreed upon by majority if not all Committee Members. As the Application for Permanency is valid for a period of two years, we are confident there is sufficient time to prepare, draft and have approved by Town Planning, a final Site Plan before this time constraint expires.

Thank You for your assistance and consideration,

Proposed Caravan Park Draft



Current Detailed Site Plan.

Please note that waste water + fire extinguishers are not recognised on this map.

100

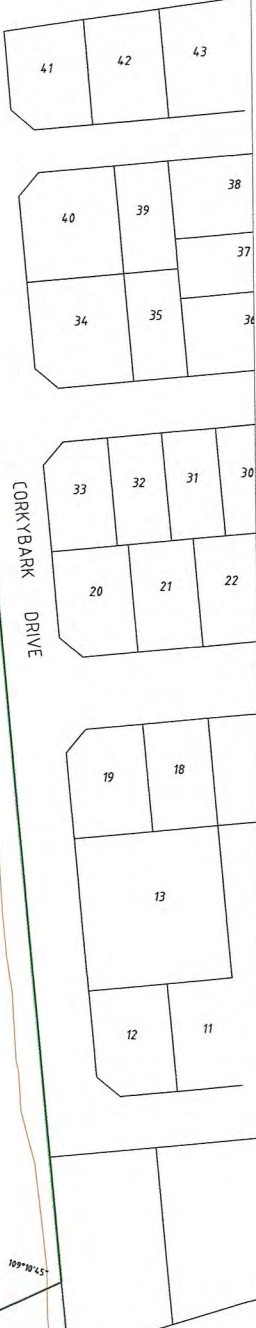
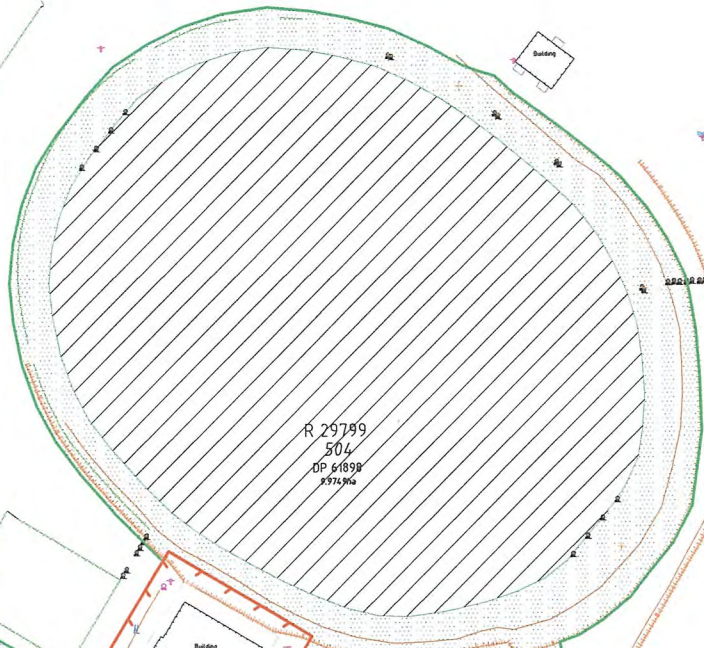
COOLIBAH DRIVE

TRANSFORMER

TRANSFORMER ROAD

IVANHOE

CORKYBARK DRIVE



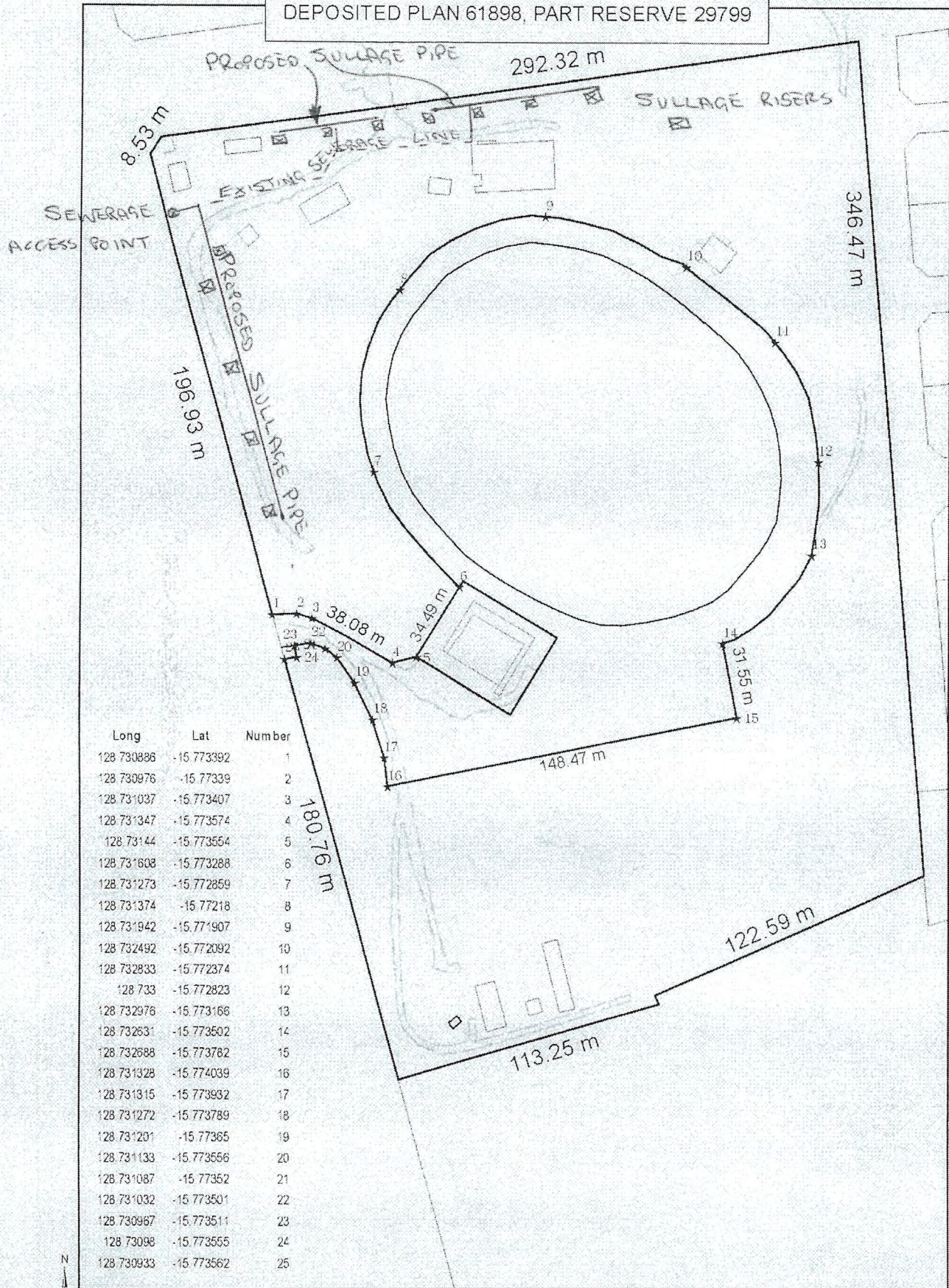
NOTES
 This plan has been prepared for the client and should not be used for any other purpose unless authorised by Wilshire CIVIS Pty Ltd.
 The location of cadastral boundaries shown has been extracted from Landgate's database in February 2015 and are subject to survey.
 Boundary dimensions have been rounded from the Plan/Easements for this lot and are subject to survey.
 Levels shown are approximate only and have been supplied by the client.
 Prior to the commencement of any work, relevant authorities should be contacted for the location of underground services.
 Levels are based on AHD and derived from SSM WYNTA.
 Due to overlapping some levels may be omitted off this plan only.
 This note is an integral part of this plan.



LEGEND	
[Symbol]	BUILDING
[Symbol]	FENCE
[Symbol]	WALL/FRETTING WALL
[Symbol]	CONCRETE EDGE
[Symbol]	BANK TOP
[Symbol]	BANK BOTTOM
[Symbol]	BOUNDARY LINE
[Symbol]	ORGANIC LEASE AREA (-1740m ²)
[Symbol]	KAS LEASE AREA (-6400m ²)
[Symbol]	ACCESS AREA (-12757m ²)
[Symbol]	OVAL AREA (-19402m ²)
[Symbol]	ELECTRIC LIGHT POLE
[Symbol]	ELECTRIC DOME
[Symbol]	POWER POLE
[Symbol]	WATER MAIN MANHOLE
[Symbol]	WATER TAP
[Symbol]	BORING/PRODUCTION
[Symbol]	SEWER INSPECTION SHAFT
[Symbol]	CULLY
[Symbol]	INVERT LEVEL
[Symbol]	SIDE RACK (TRIPLE POLES)
[Symbol]	POSTBOLLARD

Mud map - Proposed Sullage

Lease Over Portion of Lot 504 on
DEPOSITED PLAN 61898, PART RESERVE 29799



Co-Ordinates Page 2



Hassall Free Homes Pty Ltd

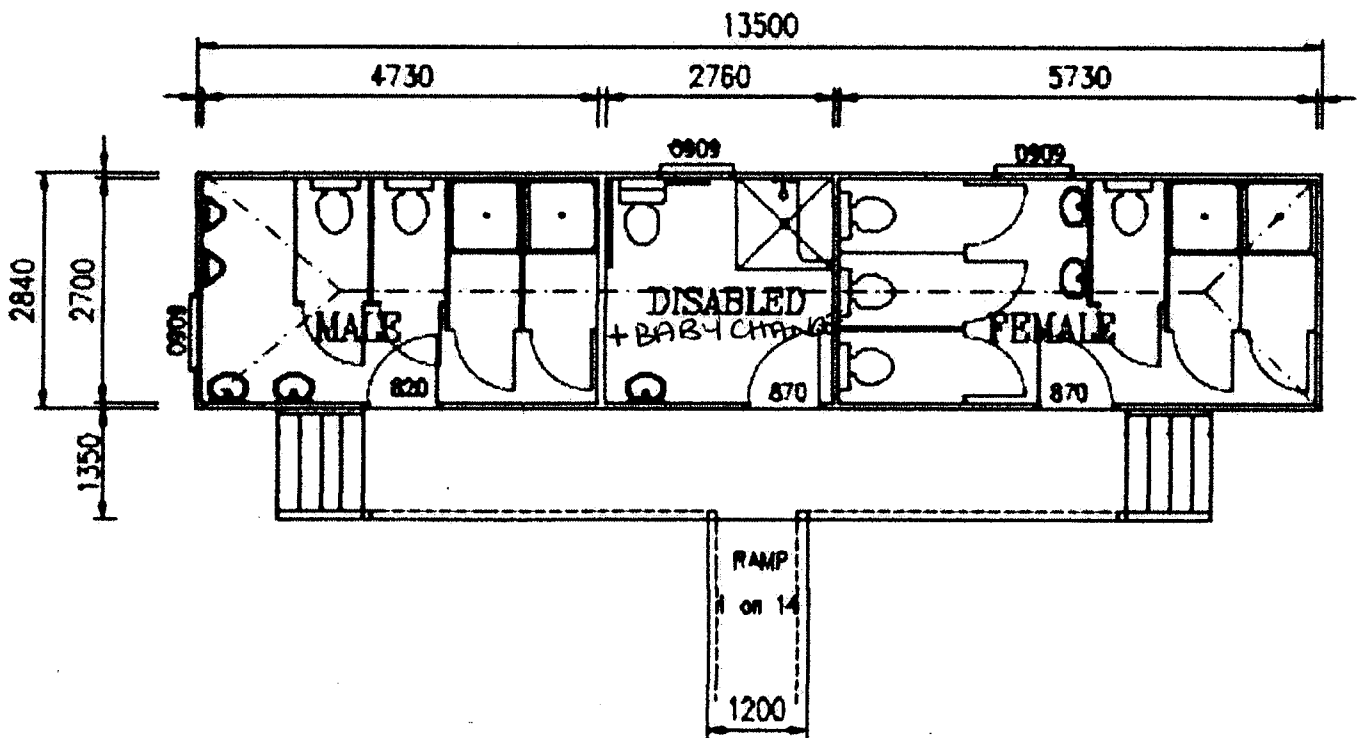
PO Box 6067 Toowoomba West QLD 4350

Phone: 07 46 301 914

Email: sales@hassallfreehomes.com.au

ABN: 54 128 389 506

Ablution Block 2



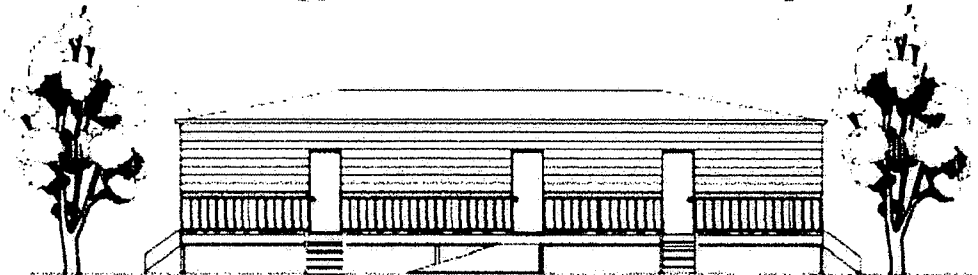
Details:

Length: 13.5m

Width: 2.84m

Total: 38.34 sqm

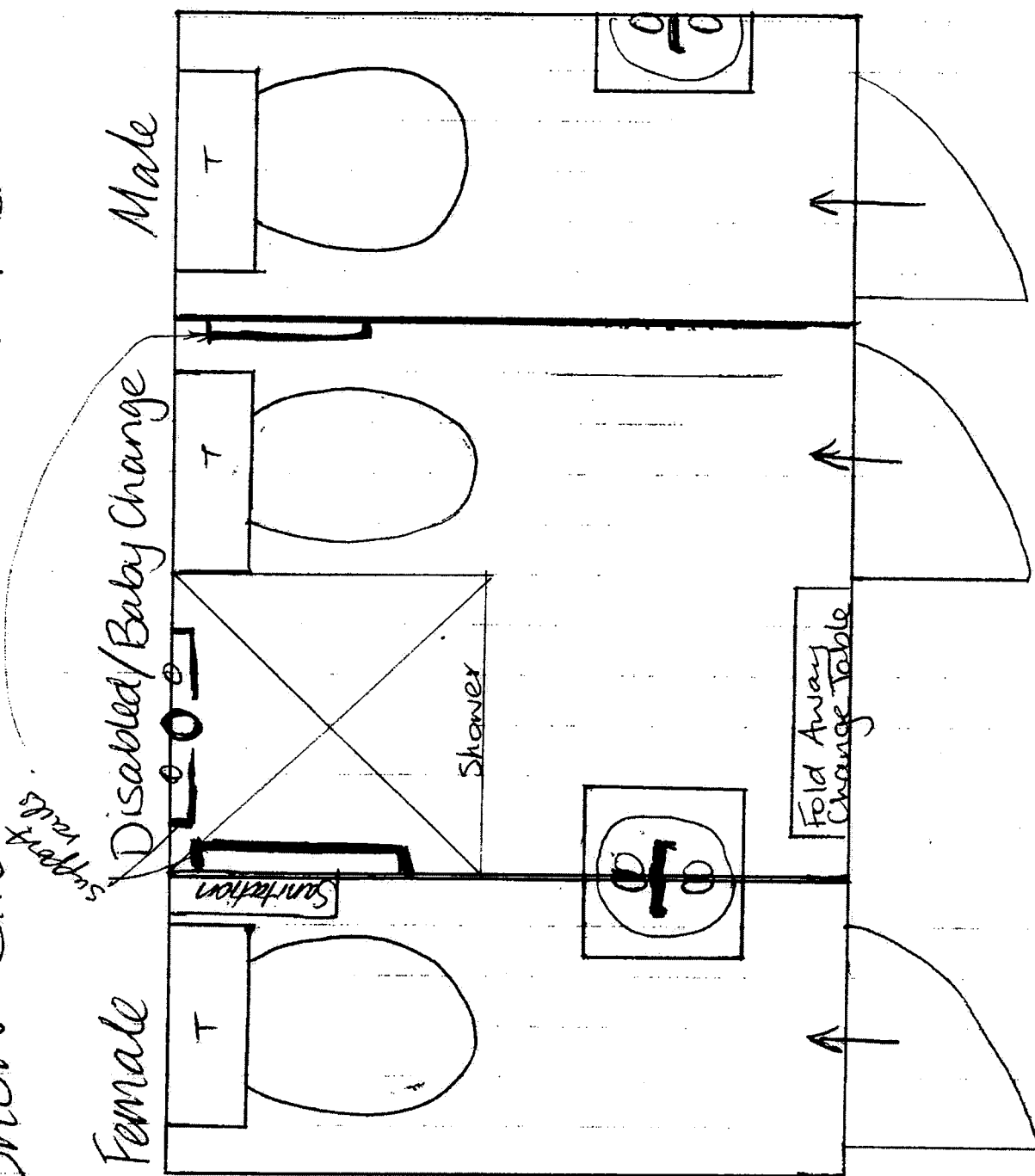
Contact us for prices for delivery, stumping,
council approvals, decks, stairs and ramps.



Illustrations are for guidance only. Decks, stairs and ramps are not included in price.

www.hassallfreehomes.com.au

Ag Show Grounds Ablution Block



SCHEDULE OF WORKS

Kununurra Agricultural Society Caravan Park – Caravan Parks and Camping Grounds Act 1995 & Caravan Parks and Camping Grounds Regulations 1997

Clause/ Reg	Requirement of Regulations/Act	Action required	Action Taken or Proposed
Sch 7 cl.19	There is to be at least one toilet and one shower within 90 metres of each site.	Sites 1-5 were more than the required 90 metres from the ablutions. These sites cannot be used unless designated as overflow. Sites numbered with (a) on the 2014 version 3 site plan can only be used as overflow from 1 June – 31 July.	Sites 1-5 & all 'a' sites, to be used as unserviced short stay sites as per clause 22 to calculation of sites for clauses 20 & 21.
Sch 7 cl. 24(c)	Each shower is to be enclosed in a cubicle which has a permanently affixed seat.	No fixed seat/bench in all shower cubicles. Install a fixed seat/bench.	Sourced from Mitcheio awaiting quote including freight costs.
Sch 7 cl. 25	Babies bath.	Baby changing bench provided in unisex disabled toilet. Additionally, a 45 litre capacity babies bath (stainless steel or other suitable material) to be installed.	Hand basin to be removed and a 45 litre stainless steel bath to be (with a pound) installed (Bunnings)
Sch 7 cl. 26	Hand basin plugs, shelving, hot water.	Install plugs and fix/replace missing shelving above hand basins. Hand basins to be supplied with hot water (not less than 45°C).	Actioned plugs. Shelves - Metcher quote. Hand basins already have hot water outlet.
Sch 7 cl. 27	Power points ablutions.	Install a power point at WC hand basins (Ag Society office ablutions only).	Quotes obtained. Committee to decide on awarding job.
Sch 7	Coat hooks WC's.	Install coat hooks to WC doors.	Actioned.

cl. 28					
Sch 7 cl. 29	Sanitary disposal units - each building on a facility which contains female toilets is to have at least one approved napkin disposal unit.	Install a minimum of 1 disposal unit per female ablation block.	One Sanitation Bin in Ablution Block, One needed in Office Ablutions.		
Sch 7 cl. 46	Caravan site at a facility is to be no more than 10 metres from a sullage waste water dump point which is in accordance with the requirements of AS/NZS 3500.2.2, or the facility is to utilise other approved means of dealing with sullage.	Install sullage dump points within 10 metres of each site. Dump points must be connected to mains sewerage.	2 quotes obtained. KDC in the budget for Ground application.		
Sch 7 cl: 42 & 44	Potable water.	There is to be a tap connected to a supply of potable water within at least 10 metres of every short stay site on a facility, unless otherwise approved.	Additional water taps added to Sullage quotes.		
Sch 7 cl. 30	Laundry - Drain plug for trough.	Plugs to be supplied to all laundry troughs.	Actioned.		
Sch 7 cl. 31	Camp kitchens x 2 - washing up facilities. Camping ground is to have at least one trough for the washing of utensils used for cooking and eating for each 20 camp sites.	Drain plug to be provided and hot water (45°C) to be supplied Troughs in campers kitchens to be connected to an approved effluent disposal system i.e. in accordance with AS/NZS 3500.2.2: 1996 "National Plumbing and Drainage. Sanitary plumbing and drainage - Acceptable solutions."	Main Camp Kitchen to have instant hot water system installed. Taps + Plumbing require quotes. - Instant Hot Water System bought, but not yet installed		

Fire + Safety Professionals contacted for quotes so far two responses. Committee to award job.

Install fire extinguishers that are within 30 metres of each site (one per six sites). Ensure that fire extinguishers have clear signage and are mounted in an accessible location. Service fire extinguishers every 6 months. Plans are to detail locations.

Fire extinguishers in a facility are to be in accordance with the requirements of AS 2444-1995 "Portable fire extinguishers — selection and location". A facility is to have at least one extinguisher for every 6 sites. A facility is to have an extinguisher not more than 30 metres from each site, located in a central position in an area accessible to all persons in the facility.

Fire equipment at a facility is to be accessible and ready for use at all times. Fire equipment at a facility is to be maintained in accordance with the requirements of Part 1 or 2, as is appropriate, of AS 1851 "Maintenance of Fire Protection Equipment".

All fire extinguishers are to be clearly displayed and mounted in accordance with "AS244-2001 Portable Fire Extinguishers & Fire Blankets".

Sch 7
cl. 33,
35, 36

Roads to be clearly marked and to be maintained. Entrance road to be 6 metres wide, one way roads 4 metres

Roads to be constructed and maintained as approved.

Sch 7
cl. 15

Maintenance required - Busy Bee prior to job. Quoted from JAB

		wide and two way roads 6 metres wide. Dust suppression to be carried out.		
Sch 7 cl: 17(3)	Visitor parking.	A car park on a facility is to have at least one parking space per 20 caravan sites on the facility, and not less than 4 parking spaces in any event.	Parking available outside main gate + on grassed area at Alt. Entrance.	
Sch 7 cl. 18	Recreation areas. Recreational facilities for children which are protected from the weather, and enclosed as is approved; and a building for communal or recreational activities, as is approved.	Pavilion to be open for recreational activities and to be fitted out with recreational equipment for adults and children.	Camp Kitchens + Open space.	
Sch 7 cl. 8	There is to be at least 3 metres between a caravan, annexe or camp on a site in a facility and — (a) a caravan, annexe or camp on any other site; or (b) any building on the facility that is not on a site.	3 metres to be kept between caravans. Sites must be large enough for this requirement. <u>Big rig sites</u> to be identified on site plan.	All sites are for 'Big Rig' or travellers with Pets.	
Sch 7 cl. 13, 37, 43 & 46(2)	If a caretaker is on site for longer than 3 months then it is considered a long stay site. A long stay site is to have the following — 1. A hard stand for a vehicle other than the caravan or such additional amount of space as is approved on the side of the facility road next to the site for at least one such vehicle to park; 2. All long stay sites are to have a separate meter to record the	A hard stand to be constructed for the resident caretaker caravan or parking area next to the long stay site developed. Compliance with water, sewerage and electricity requirements if applicable.	All requirements except Mains sewerage already in place. Connection to Mains sewerage included in Sullage Quotes	

	<p>electricity, if any, supplied to that site.</p> <p>3. A tap or water connection point with a supply of potable water at every long stay site.</p> <p>A long stay site with a caravan which has ablution, toilet or laundry facilities is to have a sewage connection point which is in accordance with the requirements of AS/NZS 3500.2.2</p> <p>Approval is required for the construction of:</p> <p>(a) a hard stand on a site;</p> <p>(b) an area under an annexe attached to an on-site caravan; and</p> <p>(c) an area under an annexe on a long stay site.</p>		<p>Concrete Hardstand and colour bond shade / annexe structure already on site.</p>
r. 43	<p>An application for the grant or renewal of a licence, is to be made as per section 7(1)(a) of the CP & CG Act 1995 (stated in cover letter)</p>	<p>Completed form and documents as described in form are to be attached to an application for a licence. A site plan is to be completed by a draughtsperson. This is to be approved by Council.</p>	<p>Draughtsperson Quoted required</p>
r. 48	<p>Overflow area – plans.</p>	<p>Plans must show any overflow area and must not exceed their licensed capacity.</p>	<p>Current Whelan's</p>
r. 44	<p>Plans & specification approvals.</p>	<p>Once plans and specifications have been approved, there can be no change without Council approval.</p>	<p>Site Plan doesn't include fire extinguishers sewerage lines water lines</p>

Cr S Cooke declares an impartiality interest (treasurer of the Rodeo Association) in this item.

13.3.11 Kununurra Bushmen's Rodeo Association Temporary Caravan Park Licence

DATE:	23/06/2015
PROPONENT:	Kununurra Bushmen's Rodeo Association
LOCATION:	Lot 707 Drovers Road, Kununurra
AUTHOR:	Ebony Daniell, Environmental Health Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	PH.12.5
ASSESSMENT NO:	A2859
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider an application made by Kununurra Bushmen's Rodeo Association for a Temporary Caravan Park and Camping Ground Licence at Lot 707 Drovers Road Kununurra.

BACKGROUND

The Kununurra Bushmen's Rodeo and Camp Draft is an annual event held at the Kununurra Rodeo Grounds. In 2015 the event will run from 27 July – 1 August 2015. As part of the event a number of participants travel to Kununurra to take part in the camp draft, many travelling with animals. The Kununurra Bushmen's Rodeo Association have applied for a temporary caravan park and camping ground licence from Sunday 26 July – Sunday 2 August 2015.

STATUTORY IMPLICATIONS

Caravan Parks and Camping Grounds Act 1995 (the Act)

- s. 7(5) *Before granting a licence a local government must ensure that —*
- (a) the applicant has complied with the requirements of this Act;*
 - (b) the applicant is the owner of the land on which the facility is situated, or is to be situated, or has the written approval of the owner of that land to apply for a licence.*

Caravan Parks and Camping Grounds Regulations 1997 (the Regulations)

- r. 47. *Applications not dealt with within time are taken to be refused*
- (1) If within —*
- (a) 63 days of receiving an application for a licence; or*
 - (b) 35 days of receiving an application for a renewal of a licence, the local government to which the application was made has not informed the applicant whether or not the application has been granted, the applicant may give the chief executive officer of the local government a notice requiring the local government to inform the applicant, within 14 days, whether or not the application is granted.*
- (2) If within 14 days after receiving a notice referred to in subregulation (1), the local government has not informed the applicant whether or not the application is granted, the*

local government is to be taken to have refused the application and the applicant may make an application for review to the State Administrative Tribunal under section 27 of the Act.

r. 54 Temporary licence

(1) A local government may, on payment of the fee set out in item 3 of Schedule 3, grant a temporary licence for a facility which is to remain in force for such period of less than one year, as is provided in the licence.

(2) A local government is to endorse on a temporary licence for a facility as conditions of the licence —

- (a) the maximum number of sites that may be used at the facility;
- (b) the maximum number of sites of particular types that may be used at the facility; and
- (c) the services and facilities that are to be provided.

POLICY IMPLICATIONS

Council Policy CP/HTH-3762 Licensing of Temporary Caravan Parks and Camping Grounds (the Policy)

Council Policy CP/HTH-3762 provides guidelines for the approval of temporary licences. The policy provides for reduction in the amenity requirements of the Regulations which is considered appropriate as temporary licences are usually issued only for a short time.

Guiding Statement 2 of the Policy requires the applicant to detail the need for a temporary facility with particular due regard to:

- providing justification for the temporary facility (why it's needed, the main users)
- impact on existing caravan parks and camping grounds within a 50km radius

FINANCIAL IMPLICATIONS

If Kununurra Bushmen's Rodeo Association is granted a temporary licence they will be invoiced for a licence fee to be calculated in accordance with Schedule 3 of the Regulations. For 30 short stay sites for 8 nights the minimum fee of \$100 will be applicable.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.4: High standard of health and community facilities and services available to all residents

Strategy 2.4.2: Ensure community compliance with Environmental Health regulations

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

To be licenced as a Caravan Park and Camping Ground compliance must be demonstrated with the Policy and the Regulations.

The proposed caravan park licence meets the requirements of the Policy with respect to Guiding Statement 2:

- Justification - The need for the licence is to accommodate event participants and allow them to be near their animals for the duration of their stay in Kununurra.
- Impact on existing parks - the licence will accommodate only event participants who travel to Kununurra for the purpose of participating in the Campdraft and Rodeo. It is not considered to have a negative impact on existing parks and is not competing for the normal tourist market.

The justification and short duration of the proposed licence makes it acceptable for Council to approve lesser services and facilities as part of the licence in accordance with the Policy.

ATTACHMENTS

There are no attachments associated with the report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council grant a temporary caravan park licence to the Kununurra Bushmen's Rodeo Association for 30 short stay sites from 26 July – 2 August 2015 subject to the following conditions:

1. Only event participants and staff associated with the Campdraft and/or Rodeo are to be accommodated in the park.
2. The following minimum ablution facilities are to be available for the duration of the licence: 4 toilets, 4 hand basins and 4 showers.
3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.
4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.
5. Fire extinguisher/s are to be located within 90 metres of every site.

COUNCIL DECISION

Minute No.11004

Moved: Cr G Taylor

Seconded: Cr G King

That Council grant a temporary caravan park licence to the Kununurra Bushmen's Rodeo Association for 30 short stay sites from 26 July – 2 August 2015 subject to the following conditions:

- 1. Only event participants and staff associated with the Campdraft and/or Rodeo are to be accommodated in the park.**
- 2. The following minimum ablution facilities are to be available for the duration of the licence: 4 toilets, 4 hand basins and 4 showers.**
- 3. All wastewater (including sullage water) is to be collected and removed from site to be disposed of at an approved wastewater dump point.**
- 4. Rubbish bins are to be sealed and provided within 90 metres of every site. All rubbish to be removed from site.**
- 5. Fire extinguisher/s are to be located within 90 metres of every site.**

Carried Unanimously 8/0

**13.3.12 Proposed Exchange of Lands – Lots 826 & 828 on Deposited
Plan 208835, Koolama Street, Wyndham**

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Lots 826 & 828 Koolama Street, Wyndham
AUTHOR:	Jennifer Ninnette, Senior Planning Officer
REPORTING OFFICER:	Louise Gee, Director Community Development
FILE NO:	A2199P, A1813P
ASSESSMENT NO:	A2199, A1813
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider a proposed land exchange of Lots 826 and 828 Koolama Street, Wyndham

BACKGROUND

The Shire owns Lots 826 and 829 Koolama Street in freehold and holds the management order for Lots 827 and 828 Koolama Street, as a reserve (Reserve 28976) for the purpose of 'Day Care Centre'.

However, the actual Wyndham Child Care Centre is built over Lots 826 and 827, existing development on Lot 828 (former Joongarri House) encroaches onto Lot 827, and current development on Lot 829 encroaches onto Lot 827.

In order to rectify the inaccuracy of the current reservation, the Shire and Department of Lands have been discussing a direct land exchange of freehold Lot 826 (to become part of the Reserve for the childcare centre) for Crown Lot 828 (to be transferred in freehold to the Shire).

A plan showing the existing reserve and freehold areas is provided as Attachment 1, which also shows the two lots proposed to be exchanged.

In order to rectify the issue of building over boundaries (encroachment) the subsequent amalgamation of lots is also proposed to create a single lot for the Child Care Centre Reserve and a single lot for the proposed freehold land. The existing ablution block previously used as part of Joongarri House will also be required to be demolished.

A plan showing the intended reserve and freehold areas is provided as Attachment 2.

In summary the Shire supports to progress the Deed of Land Exchange, based on:

1. Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;
2. Redefinition of Crown Lot 826 and 827 as a single lot; and
3. Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828.

An updated valuation for the two land parcels has been obtained for the proposed exchange, for Council to formally consider the financial implications and whether to proceed with the exchange. A copy of the valuation report is provided at Attachment 3.

STATUTORY IMPLICATIONS

Land Administration Act 1997

The proposed land exchange will be undertaken by the Department of Lands on behalf of the Minister for Lands in accordance with the Land Administration Act 1997 (LAA) and the Ministers powers under that act. Section 11 of the LAA outlines that the Minister may acquire land in the public interest from any person by numerous methods including by exchange or accepting the surrender of land held in fee simple

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The Department of Lands has obtained valuations for each of the lots, with Lot 828 (current reserve) valued at \$68, 000 plus GST and Lot 826 (current freehold) valued \$55, 000 plus GST. These valuations are valid for 12 months until 1 February 2016.

This makes a difference of \$13,000 plus GST, which the Shire will be required to pay for the proposed land exchange, and this amount was included in the 2014/2015 Mid-Year Budget Review for this purpose.

There will also be other costs in relation to a compiled survey of the properties to create two new lots (\$1500.00), preparation and lodgement of relevant documents to effect the land exchange, and demolition of derelict buildings (Joongarri House) on Lot 828 and encroaching onto Lot 827.

The Office of State Revenue has advised that transfer duty will be required to be paid on the full value of the properties to be transferred, for which \$1292.00 would be payable by the Shire.

In relation to demolition, it is estimated that it would cost between \$20,000 - \$30,000 to remove both buildings.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 2: Greater returns from regional investment to ensure sustainable provision of appropriate physical and social infrastructure

Objective 2.3: Facilities are appropriate for their intended purpose and factor in whole of life costing and maintenance

Strategy 2.3.1: Manage and maintain assets in a strategic and cost effective manner

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

The land exchange has been proposed in order to address a number of tenure and encroachment issues. It is acknowledged that there are a number of options available to the Shire to address these issues, however in any instance any option will require the Shire to either exchange or purchase portions of land and require a survey to be undertaken in some form.

If Council agrees to proceed with the land exchange based on the valuations obtained, then a Deed of Land Exchange will be drafted by the Department of Lands, to be signed by both parties, which outlines that the land exchange will be subject to:

1. Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;
2. Redefinition of Crown Lot 826 and 827 as a single lot;
3. Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828; and
4. The Shire paying the difference (\$13,000 plus GST) in value between the pieces of land exchanged; and
5. The Shire paying other costs in relation to survey costs, and the preparation (by Department of Lands) and lodgement (at Landgate) of relevant documents.

ATTACHMENTS

Attachment 1 - Existing Land Tenure Plan
Attachment 2 - Proposed Land Tenure Plan
Attachment 3 - Valuation Report

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

1. That Council agrees to proceed with the land exchange based on the valuations provided by Landgate dated 2 February 2015, and subject to:
 - a) Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;
 - b) Redefinition of Crown Lot 826 and 827 as a single lot;

- c) Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828; and
 - d) The Shire paying the difference (\$13,000 plus GST) in value between the pieces of land exchanged.
2. Requests the Chief Executive Officer to advise the Department of Lands to prepare a Deed of Land Exchange, to be signed by both parties, which outlines that the land exchange will be subject to:
- a) Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;
 - b) Redefinition of Crown Lot 826 and 827 as a single lot;
 - c) Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828; and
 - d) The Shire paying the difference (\$13,000 plus GST) in value between the pieces of land exchanged.

COUNCIL DECISION

Minute No.11005

Moved: Cr G King

Seconded: Cr G Taylor

- 1. That Council agrees to proceed with the land exchange based on the valuations provided by Landgate dated 2 February 2015, and subject to:**
 - a) Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;**
 - b) Redefinition of Crown Lot 826 and 827 as a single lot;**
 - c) Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828; and**
 - d) The Shire paying the difference (\$13,000 plus GST) in value between the pieces of land exchanged.**

- 2. Requests the Chief Executive Officer to advise the Department of Lands to prepare a Deed of Land Exchange, to be signed by both parties, which outlines that the land exchange will be subject to:**
 - a) Exchange of freehold Lot 826 for Crown Lot 828, subject to the demolition of encroaching infrastructure from Lot 828 into Lot 827;**
 - b) Redefinition of Crown Lot 826 and 827 as a single lot;**
 - c) Redefinition of Lot 828 and Lot 829 as a single lot, to address encroachment from Lot 829 into Lot 828; and**
 - d) The Shire paying the difference (\$13,000 plus GST) in value between the pieces of land exchanged.**

Carried Unanimously 8/0







Your Ref: Job N^o: 104112 File N^o: 00071-1968/02
Our Ref: Job N^o: 165475 File N^o: 22160-2011
Enquiries: Mike Brokenshire Ph: 9273 9034
E-mail: Mike.Brokenshire@landgate.wa.gov.au

Department of Lands
Regional and Metro Service
Kimberley Region
PO Box 630
Kununurra WA 6743

Attention: Carolyn Gasmier
State Land Officer



Dear Carolyn Gasmier,

**REVIEW TO UNIMPROVED VALUES ON A STAND ALONE BASE. LOT 828 AND
LOT 826 PLAN 208835 KOOLAMA
STREET, WYNDHAM**

In reply to your letter dated 22 January 2015, please find my report attached.

Based on sales evidence the market appears to be slowing, with a substantial reduction in demand. Information received from the Local Authority Planner Jennifer Ninnette indicated that the current zoning at Residential R15 is in the process of being amended to Town Centre which would allow for increase residential development potential or commercial uses. The position of a sewer main that runs through Lot 826 would affect the future development potential on this site and therefore an allowance has been made to this unimproved value.

1. The value of lot 828 as a vacant site area 911m² is considered to be **\$68,000 (Sixty Eight Thousand Dollars) inclusive of GST**
2. The value of Lot 826 as a vacant site area 789m² is considered to be **\$55,000 (Fifty Five Thousand Dollars) inclusive of GST.**

Thank you for your inquiry and, if you have any other queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "M. Brokenshire".

MIKE BROKENSHERE LIC VAL 44185
SENIOR CONSULTING VALUER
MARKET VALUES COUNTRY
LANDGATE

2 February 2015

Review to Unimproved Market Valuations

LOT 828 AND LOT 826 KOOLAMA STREET,

Wyndham



Prepared by
Mike Brokenshire Lic Val No 44185
Senior Consultant Valuer
Market Valuations Country
Landgate

Prepared for
DEPARTMENT OF LANDS
Regional and Metro Services
KIMBERLEY REGION

UNIMPROVED LAND VALUES LOT 828 FOR LOT 826 KOOLAMA STREET, WYNDHAM

1 VALUATION INSTRUCTIONS

This valuation report has been prepared in accordance with the E-mail and letter dated 22 January 2015 wherein a current market unimproved value was requested for Lot 828 Plan 208835 and Lot 826 on Plan 208835.

1. Lot 828 as a stand alone block,
2. Lot 826 as a stand alone block.

This report has been prepared for the private and confidential use of the client to whom it is addressed and should not be reproduced, either wholly or in part, or relied upon by third parties for any use, without the express authority of the Valuer General.

2 ASSUMPTIONS, CONDITIONS AND LIMITATIONS

- Landgate records relied upon are correct as at the date of this report.
- There are no encroachments by or upon the property. A current survey has not been sighted.
- Lot 828 and Lot 826 are both zoned "Residential R15" with future potential as Town Centre under a proposed rezoning by the Local Authority.
- The assessment amount assumes an unencumbered fee simple title and that any allowance for possible heritage restrictions, native title claims or contamination has not been considered.

3 VALUER'S INTEREST

I confirm that I do not have a pecuniary interest that would conflict with the proper valuation of the above property and furthermore I will ensure that this position is maintained over the duration of my appointment.

4 VALUATION PURPOSE

Unimproved market values are required for these lots as Lot 828 is to be swapped for Lot 826 which is to be vested to the Shire of Wyndham East Kimberley under a land exchange.

5 BASIS OF VALUATION

The valuation determined reflects Market Value as defined by the Australian Property Institute and the International Assets Valuation Standards Committee as:

"The estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arms' length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion."

Real estate values vary from time to time in response to changing market circumstances and it should, therefore, be noted that this valuation is based on information available at the date of valuation. No warranty can be given as to the maintenance of this value into the future. It is, therefore, recommended that the valuation be reviewed periodically.

This valuation is conducted on the basis that Landgate is not engaged to carry out all possible investigation in relation to the property. Certain limitations to investigations have been identified to enable you to instruct further investigations if you consider this appropriate. The Valuer General is not liable for any loss occasioned by a decision not to instruct further investigations.

6 DATE OF VALUATION

2 February 2015

7 PROPERTY ADDRESS

46 Koolama Street, Wyndham.

44 Koolama Street, Wyndham.

8 LEGAL DESCRIPTION

8.1 LAND IDENTIFICATION

(1) Lot 828 on Deposited Plan 208835 within Crown Land Title Volume: LR 3012 Folio: 48.

(2) Lot 826 on Deposited Plan 208835 within Certificate of Title Volume: 1259 Folio: 932.

8.2 PRIMARY INTEREST HOLDER/ REGISTERED PROPRIETOR

(1) Lot 828 is registered under Management order to the Shire of Wyndham East Kimberley.

(2) Lot 826 Registered Proprietor Shire of Wyndham East Kimberley.

8.3 ENCUMBRANCES

(1) Lot 828

Part Reserve 28976 for the purpose of Day Care Centre, Management order, contains conditions to be observed, with power to lease for any term not exceeding 21years, subject to the consent of the Minister for Lands.

11 PROPERTY LOCALITY AND ACCESS

The subject lots are located in the town of Wyndham, approximately 100kms northwest of Kununurra and 3,230kms north of the Perth CBD. More specifically, the properties are located on the southern side of Koolama Street 300 metres west of the of the central business area. The surrounding locality is developed with mostly residential housing.

12 SITE DETAILS

The areas of the subject lots are as follows:

Property	Lot Area	Frontage
Lot 828	911 m ²	30.18 metres
Lot 826	789m ²	32.19 metres

Lot 828 is a rectangular shaped lot which is level with the road. Lot 826 is a slightly irregular shaped lot also level with the road frontage.

Lot 826 is a slightly irregular shaped site with a wider frontage that the rear boundary. The site is also fairly level with the road contour.

A current survey has not been sighted. The valuation is made on the basis that there are no encroachments by or upon the property and this should be confirmed by a current survey report and/or advice from a Registered Surveyor. If any encroachments are noted in a survey report, any effect on the value stated in this report will need to be reassessed.

13 IMPROVEMENTS

Lot 828 incorporates an asbestos and iron residence built approximately 1970 known as Joongari House, which is used as a community centre. Whilst appearing structurally sound the improvements are in need of maintenance and repair. The new Triplex Development on adjoining Lot 829 encroaches over the eastern side boundary of lot 828.

Lot 826 comprises part of the Wyndham Child Care Centre constructed of Brick walls and tile roof being built approximately 1980. This building appears to straddle across the boundaries of Lot 826 and newly created lot 100. Note the improvements are not part of this valuation as an unimproved value has been requested for each lot.

14 ENVIRONMENTAL AND CONTAMINATION ISSUES

By the Commencement of the Contaminated Sites Act 2003, a Public Register is now kept in Western Australia of land that has been classified as being either "contaminated – remediation required"; "contaminated – restricted use" or "remediated for restricted use". In arriving at any assessment of the value of land, a basic search of that register has been undertaken which discloses that the land is not classified.

We do not accept any responsibility or liability whatsoever for the accuracy of the information contained in the search of the Contaminated Sites Register. In addition to searching the Register we have undertaken general enquiries on the previous use of the land and have relied on the accuracy of the information provided by you to us for this purpose.

We do not accept any responsibility or liability for any loss or damage or for consequential loss or damage of any kind arising from our negligence or otherwise to you or any person in relation to the valuation of the land. This includes any loss or damage arising from our failure or omission to consider any factors which would affect the value of the land including but not limited to any possible environmental site contamination or any failure to comply with environmental contamination.

14.1 ASBESTOS AUDIT

A copy of an asbestos register has not been provided and it is therefore assumed that any asbestos products that do or may exist in the property do not represent a hazard under the Occupational Health and Safety Act, which in turn would adversely impact on the value of the property.

No asbestos material was noticed during inspection of the property.

15 HERITAGE AND NATIVE TITLE ISSUES

The valuation has been undertaken based on an unencumbered fee simple title and any allowance for possible heritage restrictions on the existing structures or the land itself and native title claim over the land has not been considered.

16 LEASE DETAILS

We have not been advised of any leases on the subject land and have assumed vacant possession in our assessment.

17 VALUATION RATIONALE

In order to ascertain the market value of the subject properties, we have adopted the sales comparison approach. Sales evidence of vacant residential land was researched as close to the date of valuation as possible and adjustments for land area, zoning, location and shape were made in order to determine the market values.

18 GENERAL COMMENTS

The market for residential properties in Wyndham saw an increase in demand for residential properties during 2013 with residential housing sales and vacant lot sales occurring in close proximity to the subject land. This surge in activity has appeared to have stopped in 2014 due to changing demands and a reduction in mining activity within the surrounding region. This has been the effect of poorer commodity prices in the resource sector and a slowdown in the Chinese demand.

There have been no vacant land sales and only a couple of improved residential sales in 2014. The market level for both residential and commercial zoned lots appears to have stalled.

With the proposed future change in zoning to Town Centre as indicated by the Senior Planner at the Shire of Wyndham East Kimberley. The increased development potential received if developed as residential is considered to be nullified by the slowing in market demand.

Lot 826 is also affected by a sewer main which runs through the lot and restricting the future potential of any redevelopment as a stand alone lot.

On analysis of previous sales of vacant land used for residential purposes the value of lots appears to range from between \$55,000 to \$70,000. As Lot 828 is slightly larger at 911m² and has future potential for a unit development or commercial use once any rezoning to Town Centre is completed. The site in an unimproved state is considered to have a market value of \$68,000. Lot 826 being slightly smaller at 789m² and affected by the sewer main passing through the site, is considered to have a lower fair market unimproved value of \$55,000.

19 SUPPORTING EVIDENCE

The attached market information was used in support of this valuation.

Address	Lot 1231 20 Koolama Street, Wyndham
Sale Details	\$67,500 11/2012 inclusive of GST
Land Description	Comprises a 961m ² residential lot, vacant, fairly level.
Comments	R15 residential lot. Located in the new town. Slightly better

Address	Lot 1778 24 Koolama Street, Wyndham
Sale Details	\$60,000 01/2011 inclusive of GST
Land Description	910m ² residential lot
Comments	R15 residential lot. Located in the new town. Comparable to subject

Address	Lot 913 Koolinda Street, Wyndham
Sale Details	\$70,000 07/2013 inclusive of GST
Land Description	802m ² commercial or residential lot central location.
Comments	Zoned Town Centre. Located in the new town. Overall Slightly Better.

Address	Lot 908 Koolinda Street, Wyndham
Sale Details	\$50,000 07/2013 inclusive of GST
Land Description	860m ² Commercial or residential lot central location.
Comments	Zoned Town Centre. Located in the new town. Overall Slightly Better.

Address	Lot 976 Koojama St, Wyndham
----------------	------------------------------------

Sale Details	\$230,000 02/2011
Property Description	Comprises a 1,062m ² serviced R15 site with Asb/Iron built 1971 3Bed,L,K,D Say improvements value \$170,000 Land Value \$60,000. slightly better location.
Comments	Overall Slightly Better.

20 VALUATION

Based on the assumption that both sites are vacant land, Lot 828 with an area of 911m² is considered to have a fair market unimproved value (stand-alone) of **\$68,000 (Sixty Eight Thousand Dollars)** Inclusive GST and alone . Lot 826 with an area of 789m² and affect by the sewer main is considered to have a fair market unimproved value (stand-alone) of **\$55,000 (Fifty Five Thousand Dollars)** inclusive of GST.

21 GST IMPLICATIONS

Unless otherwise stated, the financial information in this report includes GST (Goods and Services Tax).

22 PRIVACY

In accordance with the Federal Privacy Act, information supplied is now regarded as private information. Under the Act, information collected for one purpose may only be used for a secondary purpose if that purpose is related and could be reasonably expected. In this context, this Office is not able to give permission for the information to be published by a third party. All data and analyses produced by this Office are provided on the condition that it is the responsibility of the receiver of such information to conform with privacy legislation.

23 CONCLUSION

Based on the assumption that both sites are vacant land, Lot 828 with an area of 911m² is considered to have a fair market unimproved value of **\$68,000 (Sixty Eight Thousand Dollars) inclusive GST**. Lot 826 with an area of 789m² is considered to have a fair market unimproved value of **\$55,000 (Fifty Five Thousand Dollars) inclusive of GST**.

This valuation has been prepared by Mike Brokenshire under delegation of the Valuer General as defined in Part II of the *Valuation of Land Act 1978*.

MIKE BROKENSHIRE LIC VAL 44186
SENIOR CONSULTING VALUER
MARKET VALUES COUNTRY
LANDGATE

2 February 2015

13.4 CHIEF EXECUTIVE OFFICER

13.4.1 Use of Common Seal

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Debbie McCallum, Governance Officer
REPORTING OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	N/a
ASSESSMENT NO:	N/a
DECLARATION OF FINANCIAL INTERESTS:	N/a

PURPOSE

For Council to receive this report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 May to 16 June 2015.

STATUTORY IMPLICATIONS

Local Government Act 1995
Council's Standing Order Local Law makes reference to the application of the Common Seal.

POLICY IMPLICATIONS

No policy implications apply in the preparation of this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this item.

STRATEGIC IMPLICATIONS

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

COMMENT

The following documents have had the Shire of Wyndham East Kimberley Common Seal applied:

Date of Use	Document
8 June 2015	Lease, Portion of Reserve 29799 - Part of Lot 504 on Deposited Plan to Kununurra Agricultural Society Inc
8 June 2015	Assignment of Lease, Lot 508 - Portion of Foreshore Reserve 50467 from Kununurra Resorts Pty Ltd to Hayley and Lodge Pty Ltd
8 June 2015	Variation of Lease, Lot 508 - Portion of Foreshore Reserve 50467, Kununurra Resorts Pty Ltd
8 June 2015	Section 70A Notification for Lot 17 Egret Close, Kununurra - Reticulated

	Sewerage not Available
8 June 2015	Section 70A Notification for Lot 17 Egret Close, Kununurra - Potable Water not Available

ATTACHMENTS

There are no attachments associated with this report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 May to 16 June 2015.

COUNCIL DECISION

Minute No.11006

Moved: Cr D Learbuch

Seconded: Cr B Robinson

That Council receives the report on the application of the Shire of Wyndham East Kimberley Common Seal for the period 21 May to 16 June 2015.

Carried Unanimously 8/0

13.4.2 Delegated Authority Report-Planning

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Louise Gee, Director Community Development
REPORTING OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	N/A
ASSESSMENT NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

To report to Council a list of development applications determined under delegated authority by Officers for the period 1 May to 31 May 2015.

BACKGROUND

In accordance with the Shire of Wyndham East Kimberley Delegations Register 2014/15, Delegation No. 32 Town Planning the use of Council approved Delegated Authority by Officers is reported to the Council on a monthly basis. Refer Attachment 1.

STATUTORY IMPLICATIONS

Shire of Wyndham East Kimberley 2014/15 (adopted 26 August 2014)

“Delegation 32 Town Planning

Conditions and Exceptions

- 1. A list of all development applications determined under delegated authority shall be incorporated in the Council’s agenda and minutes.”*

POLICY IMPLICATIONS

No policy implications apply in the preparation of this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this item.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 3: Protection and enhancement of lifestyle values, community facilities and the environment to provide safe and inviting communities

Objective 3.3: Towns are safe and inviting for locals and tourists

Strategy Ensure quality, consistent and responsive development and building assessment approval processes and enforcement

COMMUNITY CONSULTATION

Community consultation is not required in relation to this item.

COMMENT

The attached table (Attachment 1) details the use of Delegated Authority by relevant Council Officers.

ATTACHMENTS

Attachment 1 – Delegated Authority Report (Planning) May 2015

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council receives the Delegated Authority Report (Planning) for the period 1 May 2015 to 31 May 2015.

COUNCIL DECISION

Minute No.11007

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council receives the Delegated Authority Report (Planning) for the period 1 May 2015 to 31 May 2015.

Carried Unanimously 8/0

PLANNING DELEGATED AUTHORITY APPROVALS – 01 May 2015 to 31 May 2015

Application / Delegation Number	Approval Type	Date Received	Applicant	Address	Proposed Development	Assess't Number	Approval Date	Approved By
DA11/15	P	17/03/2015	Envisage Building Solutions	Lot 4 Crossing Falls, Kununurra	Residential Construction - 1 x Owner Occupied Dwelling	7869	19/05/2015	Roy Adam
DA13/15	P	08/04/2015	Christopher Powell & Katrin Helbig	Lot 2318 Cocus Way, Kununurra	Proposed Office & Workshop Extension	5579	11/05/2015	Roy Adam
DA14/15	P	08/04/2015	Duncan Palmer & Rachel Nelson	Lot 4 Weaber Plain Road, Kununurra	Proposed New Dwelling	1981	22/05/2015	Jennifer Ninnette

13.4.3 Elector Motion on Legal Matters

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

For Council to consider the elector motion that all legal matters be taken to a minimum of 3 attempts at mediation before legal action.

BACKGROUND

At the Annual General Electors Meeting on the 28 April 2015 the following elector motion was carried:

<p><u>ELECTOR MOTION</u></p> <p>Moved: Simone Rushby Seconded: Cr K Wright</p> <p>All legal matters be taken to a minimum of 3 attempts at mediation before legal action.</p> <p style="text-align: right;">Carried 25/5</p>

At the May Ordinary Council Meeting, Council resolved the following:

COUNCIL DECISION

Minute No. 10959

Moved: Cr D Spackman

Seconded: Cr K Wright

That Council has considered the Elector Motion and defers it to a briefing session to consider the savings for Council.

Carried Unanimously 9/0

The item was considered by Council at the June Briefing Session.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Taking all legal matters to a minimum of 3 attempts at mediation could have financial implications due to an increase in the time and resources of officers, and legal advisors, to manage the process.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY ENGAGEMENT

The Shire of Wyndham East Kimberley's CP/GOV-3100 Community Engagement Policy has been considered in relation to this item.

No community engagement is required

COMMENT

In the course of its business the Shire will be required to conduct legal proceedings or obtain legal advice, such as for the enforcement of local laws or Acts of Parliament which the Shire is responsible for administering. Legal opinion is generally sought after due consideration has been given to the importance of the issue, the likely cost and the availability of advice from other sources e.g. WALGA or other Councils. The cost of conducting legal proceedings may be expensive and the outcome of a prosecution may result in a minimal penalty/fine being imposed on the offender and/or only modest costs being recovered however some issues have to run the full course of the legal system due to the need to satisfy community concern and/or discourage others from conducting activities, or taking actions against the community interest.

Generally the Administration is authorised to initiate legal proceedings through Council's Solicitors and/or through Authorised Officers to prosecute offences and for the recovery of any fines or penalties from any person committing an offence under the Local Government Act and by-laws made in accordance with the provisions of that Act or any other Acts of Parliament which Council is responsible for administering e.g. the Health Act, the Litter Act, the Dog Act, the Bush Fire Act. The Administration will also obtain from Council's Solicitors such other legal advice and opinion as is deemed necessary for Council to make informed decisions. Legal advice/opinions are generally sought from solicitors best able to provide expert advice at a reasonable cost, with reliance not placed on any one legal firm.

Mediation is a way of resolving disagreements without going to court. It is effective for dealing with disputes early and quickly without the costs and delays of taking legal action. It is also good when you want to maintain an ongoing relationship with the other party. Mediation is one strategy to assist parties to resolve their dispute by agreement. Mediators will generally not advise a party, make decisions for a party or impose a solution on the parties. Parties should participate in good faith in the mediation process and co-operate with the mediator and each other during the mediation to achieve a mutually acceptable

resolution of the dispute. Mediation is a type of alternative dispute resolution. People can enter into mediation voluntarily, but in some cases it is compulsory.

However to suggest that Council take all legal matters to a minimum of three attempts at mediation before legal action, is not considered practical or appropriate. Council must be free to seek and follow its legal advice on a case by case basis, as determined by the law. Whilst one avenue can be mediation, and it is often used in planning and development applications, any action before Council needs to be considered individually based upon the merits of the situation and/or Council's resolved position. Council should not limit itself to such an open ended motion which may have unintended consequences, including increased time to resolve issues and officer time/resources. Mediation is dependent upon the parties agreeing to outcomes however if this cannot be achieved further action may be necessary and Council must have the freedom to follow its legal and/or other advice and act in the best interests of the Shire of Wyndham East Kimberley.

ATTACHMENTS

There are no attachments associated with the report.

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

- 1) Does not support the elector motion that all legal matters be taken to a minimum of 3 attempts at mediation before legal action.
- 2) Notes the intent of the elector motion and requests that administration consider mediation as an option to resolve disputes where possible and/or where advised.

COUNCIL DECISION

Minute No.11008

Moved: Cr S Cooke

Seconded: Cr B Robinson

That Council:

- 1) Does not support the elector motion that all legal matters be taken to a minimum of 3 attempts at mediation before legal action.**
- 2) Notes the intent of the elector motion and requests that administration consider mediation as an option to resolve disputes where possible and/or where advised.**

Carried Unanimously 8/0

13.4.4 Outstanding Actions from Council Resolutions

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	N/A
DECLARATION OF INTERESTS:	Nil

PURPOSE

To report to Council on progress of implementing Council resolutions and provide comment on outstanding actions from Council resolutions.

BACKGROUND

At each meeting of Council, resolutions are made which require actions to be taken by Officers to implement those resolutions. This monthly update advises the Council as to the status of the implementation of resolutions.

STATUTORY IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.2: Improve the efficiency and productivity of Shire services

COMMUNITY CONSULTATION

None required.

COMMENT

Attachment 1 summarises all actions from May Council resolutions.

Attachment 2 summarises all actions that are outstanding from previous Council resolutions.

ATTACHMENTS

Attachment 1 - Actions from May Council resolutions

Attachment 2 – Outstanding actions from previous Council resolutions

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council notes the report - Outstanding actions from Council resolutions.

MOTION

Cr G Taylor moves to defer the item until the missing data is available.

COUNCIL DECISION

Minute No.11009

Moved: Cr G Taylor

Seconded: Cr S Cooke

That Council defers the item 13.4.4 Outstanding Actions from Council Resolutions until the missing data in the Attachments is available.

Carried Unanimously 8/0

Reason: Council requires missing data before a decision can be made.

Meeting	Item	Resolution	Progress Comment	Completed
SCM 01/05/15	Confirmation of Minutes of Special Council Meeting 01/05/15	That Council confirms the Minutes of the Special Council Meeting held on 23/04/2015, with an amendment to Minute No. 10872 – the votes against are to be recorded as Cr D Spackman, Cr K Wright, Cr G King.	Minutes amended in hard copy and online formats.	YES
SCM 01/05/15	Mosquito Fogging in Wyndham	That Council: a) Run a mosquito fogging program, 3 times a week for 2 weeks b) Invites Dr Peter Neville from the Department of Health or his nominee to attend via video link to provide a briefing on this matter as soon as convenient	Mosquito fogging to commence in Wyndham on the 25 May 2015 following one weeks public notification. Dr. Peter Neville presented at the May Briefing.	12-May-15
SCM 12/05/15	Endorsement of the 2015/16 Rates in the Dollar and Minimum Payments for Advertising	That Council: a. Endorses for advertising for a minimum of twenty-one (21) days and seeks public submissions on: i. The Strategic Rating Policy that outlines the principles which underpin the proposed 2015/16 rating model, including the Objects of and Reasons for Differential Rates; ii. The following proposed differential general rates and minimum payments to be applied from 1 July 2015 for the 2015/16 financial year in accordance with section 6.36 of the Local Government Act 1995: Differential Rating Category Rate In the Dollar (cents) Minimum Payment GRV Residential 9.4738 1,105.00 GRV Other Vacant 14.2107 1,105.00 GRV Commercial 12.3159 1,105.00 GRV Industrial 11.3686 1,105.00 UV Rural Residential 0.9979 1,105.00 UV Pastoral 5.3637 1,105.00 UV Commercial/Industrial 0.6843 1,105.00 UV Rural Agriculture 1 0.9677 1,105.00 UV Rural Agriculture 2 0.6843 1,105.00 UV Mining 28.0312 1,105.00 UV Mining Vacant 14.0156 553.00 UV Other 0.6420 1,105.00	Public submission period closes on 12 June 2015. At the time of writing this, 4 public submissions had been received. Item will be presented to the June OCM for consideration.	Partially
SCM 12/05/15	Endorsement of the 2015/16 Rates in the Dollar and Minimum Payments for Advertising	That Council notes: a. That approval from the Minister for Local Government and Communities will need to be sought subsequent to the consideration of public submissions for: i. Imposing a minimum payment on the GRV Other Vacant rating category which result in more than 50% of the properties in this category being subject to minimum payments, in accordance with section 6.35(5) of the Local Government Act 1995; and ii. Imposing a rate in the dollar for UV Mining, UV Mining Vacant and UV Pastoral which will result in it being more than twice the lowest differential general rate imposed, in accordance with section 6.33(3) of the Local Government Act 1995. b. That the 2015/16 rates in the dollar and minimum payments proposed, cannot be adopted by the Council for incorporation into the budget until after Ministerial approval has been granted.	Will be sought subsequent to the Council considering submissions from the public.	No

Meeting	Item	Resolution	Progress Comment	Completed
SCM 12/05/15	Endorsement of the 2015/16 Rates in the Dollar and Minimum Payments for Advertising	That Council: 1. Approves the allocation of 3% of the additional rating revenue to be transferred to the Asset Management Reserve to be utilised for its stated purpose, being to "provide for the ongoing maintenance, renewal, upgrade, replacement or development of Shire owned assets within the Shire of Wyndham East Kimberley".	This will be incorporated into the 2015/16 Budget Process	No
SCM 12/05/15	Endorsement of the 2015/16 Rates in the Dollar and Minimum Payments for Advertising	That Council: 1. Notes the legal advice received in relation to the option of imposing a specified area rate and endorses officer's investigating alternative options	Noted	Yes
OCM 26/05/15	Consideration of Recommendations Contained Within the Minutes of the Audit (Finance and Risk)	That the Audit (Finance and Risk) Committee recommends to the Council that: 1. The Council grant an extension of time for the special payment arrangement plan to be negotiated and signed by the rates debtor A501 until 31 July 2015.		
OCM 26/05/15	Consideration of Recommendations Contained Within the Minutes of the Audit (Finance and Risk)	That the Audit (Finance and Risk) Committee recommends to the Council that it: 1. Directs the CEO to write to the Kimberley Zone of WALGA and Regional Collaborative Group indicating that the Shire of Wyndham East Kimberley will not be participating in the joint request for tender process for the provision of Audit Services and apologising for supporting the motion at the Zone meeting. On the basis that the Shire has already undertaken a process to ensure appointment occurs prior to 1 July 2015. 2. Engages UHY Haines Norton to undertake the Audit Services for a five year period for the financial years commencing 1 July 2015 through to 30 June 2020. 3. Engages UHY Haines Norton to undertake the Regulation 5(2)(c) Review for the financial year ending 30 June 2018. 4. Engages UHY Haines Norton to undertake the Regulation 17 Review for the calendar year ending 31 December 2016. 5. Appoints Mr David Tomasi, Mr Greg Godwin and Mr Wen-Shien Chai of UHY Haines Norton as Auditors for a five year period for the financial years commencing 1 July 2015 through to 30 June 2020. 6. Notes that UHY Haines Norton (Perth) will be changing its name to Moore Stephens effective from 1 July 2015 as a result of a		
OCM 26/05/15	Review of CP/FIN-3204 Purchasing Policy	That the Council: 1. Rescind Council Policy FM19 Purchasing and Tendering Policy on the basis that it was superseded some years ago. 2. Adopt the amended CP/FIN-3204 Purchasing Policy.	Purchasing Policy was been distributed across the organisation. Organisational Directive has been drafted and put to the Leadership Team for comments to be received by 12 June 2015. Upon presentation to EMT 17 June 2015 and subsequent CEO approval, the Organisational Directive will be rolled out across the organisation with mandatory training provided.	Yes

Meeting	Item	Resolution	Progress Comment	Completed
OCM 26/05/15	Proposed Asphalt Treatment – Kununurra Town Site	<p>That Council:</p> <ol style="list-style-type: none"> 1. Approve the initial allocation of income in 2015/16 against GL account number 03120214 “Road to Recovery Grants” of \$710,585; 2. Approve the additional expenditure allocation in 2014/15 against GL account number 04120318 “Ashpalt Resurfacing Program (R2R) – Kununurra Town Site” by \$710,585; 3. Approves the variation to the current Konkerberry Drive drainage upgrade and dual lane turn off project to incorporate the asphalt surfacing treatment of the Konkerberry Drive service road adjacent to the Coles Shopping Centre, and requests the CEO, or their delegate to seek a variation from the Department of Regional Development and Lands to the funding agreement; 4. Approves the inclusion of the following projects into the Forward Capital Works Plan: 5. Accept the additional offer from Downer Infrastructure, ABN 66 008 709 608, 5 Marion Road, Maddington WA 6109 as a variation to RFQ ET02 14/15 - Kununurra Airport Asphalt Surfacing Runway for the supply and lay of Dense Graded C320 Asphalt to the following streets as listed: <ol style="list-style-type: none"> a) Konkerberry Drive service road adjacent to Coles: \$89,740; b) Ebony Road between River Fig Road and Konkerberry Drive: \$42,250; c) River Fig Road between Messmate Way service road and 	Works commenced.	In Progress
OCM 26/05/15	Home Occupation at Lot 107 (14) Nutwood Crescent, Kununurra	<p>That Council grants planning consent for a Home Business (Retail Trade by Appointment) at Lot 107 Nutwood Crescent, Kununurra, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The use shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government. 2. Retail trade must be by appointment only and any advertising associated with the business must not include the address of the property. 3. Appointments must only occur between 7am-7pm. 4. Any change of use shall be subject to further Council consent. 5. Does not employ any person not a member of the occupiers' household except with the consent of the Shire. 6. The use shall not cause injury to or prejudicially affect the amenity of the neighbourhood. 7. The use shall not occupy an area greater than 20m2. 8. In relation to vehicles and parking, does not result in the requirement of a greater number of parking facilities than normally 		

Meeting	Item	Resolution	Progress Comment	Completed
OCM 26/05/15	Development Application for Radio Communication Structure - Lot 656 Great Northern Highway, W	<p>That Council approves the planning application for a Radio Communication Structure at Lot 656 Great Northern Hwy, Wyndham, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. Development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire. 2. The radio communication structure should be adequately fenced. 3. An easement is to be created over the radio communication structure. 		
OCM 26/05/15	Lot 1740 (2) Milkwood Street – Proposed Shed	<p>That Council resolves to:</p> <ol style="list-style-type: none"> 1) Grant consent for a Shed at Lot 1740 Milkwood Street, Kununurra, subject to the following conditions: <ol style="list-style-type: none"> 1. Use and development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire. 2. No development shall occur that will cause additional runoff of stormwater to adjacent properties. Stormwater from runoff and any sealed areas shall be mechanically directed into the Shire's stormwater system in accordance with Shire specifications, or onsite to garden areas, sumps or rainwater tanks. Stormwater will not be permitted to pond on the site or against any building or structure. 3. The shed is to be clad in compatible, muted-tone exterior colour(s). 4. Screening vegetation to be planted on the eastern and southern boundaries between the proposed shed and fence to the satisfaction of the Shire. Such additional screening as is necessary post-construction is to be planted prior to the occupation of the shed. 		
OCM 26/05/15	Annual General Electors Meeting 28 April 2015	<p>That Council:</p> <ol style="list-style-type: none"> a) Receives the information from the electors meeting and is implementing changes to policies relating to fogging within our Shire. b) Notes that a mosquito fogging program has commenced in Wyndham to address mosquito nuisance. This program is to run three (3) times a week for (2) weeks depending on climatic conditions. c) Requests the Chief Executive Officer to develop a Mosquito Management Plan in consultation with the Department of Health and the community. 		
OCM 26/05/15	Annual General Electors Meeting 28 April 2015	That Council has considered the Elector Motion (Mediation for Leg	Taken to Council Briefing Session - June 2015	YES

Meeting	Item	Resolution	Progress Comment	Completed
OCM 26/05/15	Annual General Electors Meeting 28 April 2015	<p>That Council:</p> <p>a) Does not support the Elector Motion that the Shire convenes a public meeting of all interested persons, business, private, departmental, police and anybody that may have input into the problem to discuss the ever increasing problem that methamphetamine is posing to our community and seeking ways to find cooperative solutions to address the issue in our community.</p> <p>b) Requests the CEO to arrange a briefing of Council from key agencies to gain advice regarding best practice for Local Government in addressing methamphetamine use within the community.</p>		
OCM 26/05/15	Annual General Electors Meeting 28 April 2015	That Council supports the release of the probity report as per the E	Probity report, part of June OCM Agenda	YES
OCM 26/05/15	Council Policy Review – Public Interest Disclosure	<p>That Council:</p> <p>1. Repeals Council Policy CP/HR20 Public Interest Disclosure.</p> <p>2. Acknowledges the draft Organisational Directive – Public Interest Disclosure.</p>		
OCM 26/05/15	Local Government Elections 2015	That the Council declares, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2015 ordinary election together with any other elections or polls which may also be required.	WAEC have been advised of this resolution	YES

Meeting	Item	Resolution	Progress Comment	Completed
Aug-12	Matters arising from committees of council	That the Audit (Finance and Risk) Committee recommends to Council to require the Wyndham Community Club Committee to: 1. Either a. meet their outstanding rates debt on assessment A501 within 60 days; or b. enter into a suitable payment plan approved by the Chief Executive Officer; and 2. Formalise the lease of Lot 472 Great Northern Highway, Wyndham with the Shire within 90 Days	A meeting was held with Shire officers and the President of the Wyndham Community Club whereby indications were that there was to be a meeting of members before the end of June to discuss the matters in more detail. Advice would be forthcoming thereafter.	In progress
May-13	Lease of portion of Reserve 41812 – Ingle Pty Ltd (Lakeside Resort)	That Council: 1. Offers Ingle Pty Ltd a 21 year lease, for portion of Reserve 41812, part Lot 502 on Deposited Plan 64834, adjoining Lakeside Resort, Casuarina Way Kununurra, and the annual rental amount be set at \$25,750, to be reviewed every two years; 2. Advertises its intention to enter into a lease over portion of Reserve 41812 to Ingle Pty Ltd for 14 days in accordance with section 3.58 of the Local Government Act 1995; 3. Delegates the power to sign the lease to the CEO and Shire President, subject to receiving no objections during the advertising period.	Final lease document provided for signing. Lessee has requested clarification on the lease commencement date and survey area. To be considered at June OCM.	No
Aug-13	Road Closure, Long Michael Plain Road	That Council: 1. Finalise the process for the closure of Long Michael Plain Road; 2. Acknowledges there were no submissions against the closure of the Long Michael Plain Road and there were four (4) submissions acknowledging the pending closure; 3. Resolve to request the Minister of Lands to close the road as per section 168 of the Land Administration 1997 Act , and 4. Upon response from the Minister of Lands removes Long Michael Plain Road from the Shire's Road Register.	Now with RDL for closure. RDL undertaking survey for closure. Now awaiting RDL to complete.	No
Jun-14	Development Application for Change of Use - Shop at Lot 11, Pruinosa Street, Kununurra	That Council approves the planning application for a Change of Use - Shop at Lot 11 Pruinosa Street, Kununurra, subject to the following conditions: 1) Development shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the Shire; 2) A total of 20 parking spaces are to be provided onsite in accordance with a parking layout plan approved by the Shire prior to the commencement of the use; 3) All vehicle access/egress from the site must comply with the requirements of the Shire and Main Roads Western Australia; 4) The road reserve is for expansion of the road network and if needed any part of the driveway access/egress that is in the road reserve shall be removed. Future location and use of driveway access/egress requires approval and negotiation with Department of Main Road Western Australia; 5) Access directly onto the Victoria Highway from Lot 11 Pruinosa Street, Kununurra is not permitted. The installation of measures to prohibit access is required, which are to be approved by the Shire and Department of Main Road Western Australia, and maintained by the applicant.	Approval letter sent 27 June 2014. Specific advice regarding the ACROD disabled bay and kerb ramp design has been provided to the landowner to undertake required works. Ongoing discussions with applicant regarding the outstanding disabled parking bay.	No

Meeting	Item	Resolution	Progress Comment	Completed
Sep-14	Adoption 2014/15 Budget	<p>That the Council:</p> <ol style="list-style-type: none"> 1. directs the CEO, and all procurement delegates, to seriously consider the expenditure of funds prior to commitments being made to ensure that the expenditure is the best value for money for ratepayers and is absolutely warranted or if further savings could be made; 2. directs the CEO, or their delegate, to investigate <ol style="list-style-type: none"> a. further savings opportunities associated with the operation of the Wyndham Pool, Kununurra Leisure Centre and Library Services that are to be brought back to elected members for consideration prior to the 2014/15 Mid Year Budget Review; b. potential leasing opportunities for the Kununurra Youth Centre; and c. opportunities for the sale, lease or co-location of Shire-owned land and buildings. 3. directs the CEO, or their delegate to write to DLGC and ask them to carry out a probity audit on the Shire (SWEK operations) at no cost to SWEK for external agencies. 	Final report received from DLGC is being considered by the Council at the June OCM.	In progress
Oct-14	Proposed Transfer of Part Lot 3004, Portion of Reserve 50425, Adjoining Kimberleyland Holiday P	<p>That Council advises the Department of Water:</p> <ol style="list-style-type: none"> 1. That the Shire of Wyndham East Kimberley is willing to take on management of portion of Reserve 50425, being part Lot 3004 on Deposited Plan 46759, subject to survey, if required and at no cost to the Shire. 2. That the Shire requires access to maintain existing drainage facilities on a portion of Lot 3004 on Deposited Plan 46759 which is within the Priority Drinking Water Source Area (PDWSA), and wishes to continue discussions to identify an appropriate mechanism for the continued maintenance of this asset. 	Letter and copy of the minutes sent to Department of Water, and the Department of Lands.	No
Oct-14	Reserve 24857 - Wyndham Turf Club - Encroachment of Racecourse onto Unallocated Crown Lan	<p>That Council:</p> <ol style="list-style-type: none"> 1. Advises the Department of Lands that: <ol style="list-style-type: none"> a) The Shire of Wyndham East Kimberley has identified an approximately 13ha area of unallocated Crown land to be included into Reserve 24857 to address the encroachment of the Wyndham Racecourse as depicted on the attached aerial photograph. b) The Shire of Wyndham East Kimberley indemnifies the Minister for Lands against any costs arising from the future act process. 2. Advises the Wyndham Turf Club that they will be responsible for any costs incurred by the Shire of Wyndham East Kimberley arising from the future act process. 	Letter and copy of the minutes sent to both Department of Lands and Wyndham Turf Club. Department of Lands has advised that the Shire is the proponent and seeking the Shires agreement to pay survey costs. and to commence discussions with the Balangarra #3 PBC. Meeting to be arranged with Balangarra Aboriginal Corporation and matter to be considered at June OCM.	No

Meeting	Item	Resolution	Progress Comment	Completed
Oct-14	East Kimberley Marketing Group Funding Request	That Council will continue to fund the East Kimberley Marketing Group for the next phase of implementing their Marketing Plan on the following conditions: a) that incorporation is achieved, ABN registered (for GST compliant invoices) and the Bank Accounts established before any more funding is provided; and b) that the next grants are in two stages iii. \$10,000 provided when the marketing fund has reached a balance of \$10,000 from contributions from business; and iv. a further \$5,000 provided when that amount is also matched.	EKMG have been notified and awaiting invoices	No
Nov-14	Proposed pedestrian refuge island and associated pavement markings, Konkerberry Drive and Banksia Street Intersection following asphalt overlay	That Council approve Option 1 as shown on Concept Drawing KON-14-1 including provision of a dedicated right turn pocket for vehicles entering Coles shopping car park area and the provision of a refuge island for pedestrians/cyclists crossing <u>Konkerberry Drive.</u>	Following no responses to a request for tender, Staff are now approaching contractors directly to progress the project. Pavement line markings and regulatory signage installed by MRWA contractor when in town likely mid 2015	In Progress
OCM 16/12/14	Waste and Green Waste at Crossing Falls	That Council: 1) sends a letter to Crossing Falls residents advising them that all household waste must be placed in their wheely bin or taken directly to the licenced Shire landfill facility, that green waste should not be deposited at the disused gravel pit on Crown Land at the corner of Crossing Falls Road and Cherubin Road and that residents may dump up to 1 m3 per day without charge at the licenced Shire landfill facility; 2) approaches the Crossing Falls Fire Brigade with a request to supervise the once off burning of the current pile of green waste at the site; and 3) places a rock barrier at the entrance to the disused gravel pit, using waste maintenance funds.	Letters sent to Crossing Falls residents and to the Crossing Falls Fire Brigade. Rossing Falls Brigade have requested this item not be progressed while it seeks State approval to undertake training at the site.	No

Meeting	Item	Resolution	Progress Comment	Completed
OCM 16/12/14	Lease of Concession Stand, East Kimberley Regional Airport	<p>That Council:</p> <ol style="list-style-type: none"> 1. Authorises the property (one concession booth at East Kimberley Regional Airport) to be advertised for disposal (lease) to Bradleigh Trading Pty Ltd as per the provisions of the WA Local Government Act 1995, sect 3.58(3)(4) "Disposing of property". 2. If no objections are received through public notification process, then; <ul style="list-style-type: none"> o Authorises the Chief Executive Officer to execute the new lease with Bradleigh Trading Pty Ltd for the vacant booth area at the East Kimberley Regional Airport with the following conditions; <ul style="list-style-type: none"> <input type="checkbox"/> Permitted use of administration and office duties allowed. <input type="checkbox"/> Lease to be an initial 1 year period, with an ongoing option of monthly extensions based on agreement between the lessor and the lessee, (the short lease period will allow Council the flexibility to install new Car Hire tenants if the need arises). <input type="checkbox"/> Rent set at the property valuation level of \$5,000 per annum with normal CPI increases. <input type="checkbox"/> Commencement date 1 February 2015. 	The lease documents have not been executed. Legal advice has been received and a report is expected to go to Council at its June meeting.	In Progress
OCM 16/12/14	Requests for Information	<p>That the Acting Chief Executive Officer develop the following for Council consideration in 2015:</p> <ol style="list-style-type: none"> 1. Communications Policy 2. Customer Service Charter 3. Complaints Policy 	The Council endorsed a draft Customer Services Policy and Complaints Management Policy at the March OCM. Public comment is now being sought for a period of 28 days to be provided to the Council for consideration prior to the adoption of the Policies. The endorsed Policies have been communicated to staff and the leadership team, and are currently in use. The public comment period has now closed and a report will be provided to the June meeting for consideration.	In progress
OCM 24/02/15	Draft Shire of Wyndham East Kimberley Local Planning Strategy	<p>That Council:</p> <ol style="list-style-type: none"> 1. Directs the Acting Chief Executive Officer to amend the Priority Agricultural Land - Key Recommendations and Consolidated Recommendations in the draft Local Planning Strategy to include an additional recommendation to investigate appropriate zonings of land adjacent to Lake Kununurra on Packsaddle and Jabiru Roads; and land adjacent to the Ord River on River Farm Road for tourism development, non-agricultural business development and rural living. 2. Endorses the draft amended Shire of Wyndham East Kimberley Local Planning Strategy for advertising; and. 3. Directs the Acting Chief Executive Officer to forward the draft amended Shire of Wyndham East Kimberley Local Planning Strategy to the Western Australian Planning Commission (WAPC) and requests certification to advertise in accordance with Regulation 12 of the Town Planning Regulations 1967. 	Amendments requested to be made by consultants (GHD) to Draft Local Planning Strategy as per Council's resolution. Draft Strategy referred to WAPC for certification.	In progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 24/02/15	Draft Shire of Wyndham East Kimberley Local Planning Scheme No. 9	<p>That Council:</p> <ol style="list-style-type: none"> 1. Directs the Acting Chief Executive Officer to amend Sub-Section 4.12.2.1 Non-agricultural uses (4.12 Local Horticulture Zone (Rural Agriculture 2), of the draft Shire of Wyndham East Kimberley Local Planning Scheme No. 9 (LPS 9) to include the following uses; farm stay and chalet. 2. Directs the Acting Chief Executive Officer to amend Section 4.3 Zoning Table of the draft Shire of Wyndham East Kimberley Local Planning Scheme No. 9 (LPS 9) to include Use Classes Farm Stay and Chalet in the Local Horticulture Zone, and the permissibility of these uses to be 'A' in accordance with section 4.3.2. 3. Directs the Acting Chief Executive Officer to amend Schedule 1 - Dictionary of Defined Words and Expressions, Part 2 Land use definitions of the draft Shire of Wyndham East Kimberley Local Planning Scheme No. 9 (LPS 9) to include farm stay and chalet. 4. Directs the Acting Chief Executive Officer to amend Table 2 - Development Standards of the draft Shire of Wyndham East Kimberley Local Planning Scheme No. 9 (LPS 9) to include development standards for farm stay and chalet land use. 5. Notes the letter received from the Western Australian Planning Commission dated 4 August 2014. 	Letter sent to WAPC and EPA dated 18/03/2015 along with 2 bound copies of the Scheme Text and Scheme Maps and full copy of the Council Resolution.	In progress
OCM 24/02/15	Management of Proposed Reserve - Packsaddle Creek	That item 13.4.7 Management of Proposed Reserve – Packsaddle Creek be deferred to a briefing session.	Matter was discussed at March Briefing Session. Subsequent information to be sought from Department of Lands.	In progress
OCM 24/02/15	Public Art Project	<p>That Council directs the Acting CEO to:</p> <ol style="list-style-type: none"> 1. Enter into an agreement with LandCorp for the placement, maintenance and insurance of the public art works in Coolibah Estate for a period of two (2) years. 2. Ensure that the formalised agreement with LandCorp includes a requirement for LandCorp to maintain detailed records of the costs incurred during this two (2) year period for the maintenance and/or repair of the art works and provide these records to the Shire. 3. Provide a further report to Council prior to the conclusion of the formalised agreement with LandCorp which includes the following - A Costs incurred for the maintenance and/or repair of the public art works during the period of the agreement; and B Confirmation of LandCorp's intent to contribute a minimum of \$10,000 or another appropriate amount which reflects incurred maintenance costs towards the ongoing maintenance of the public art works. 4. Bring up notice as the 2 year period draws near so that Council may consider the future of the proposed public art. 	Draft Deed has been reviewed and comments provided to LandCorp.	In progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 24/02/15	Car Hire Booth Rental at EKRA	<p>That Council authorise the Acting Chief Executive Officer to advertise the proposed disposition of concession booth 3 and designated parking bays at the East Kimberley Regional Airport in accordance with The Local Government Act 1995 Cl 3.58 (3) & (4) and if there are no submissions, execute a lease agreement with Tuffy's Pty Ltd trading as East Kimberley Hirings and known as Hertz for a concession booth and 6 designated car parking bays at the East Kimberley Regional Airport subject to the following conditions:</p> <p>1) for record purposes, Tuffy's Pty Ltd shall satisfactorily complete a copy of the tender return documents for tender T3 14/15 TENDER FOR THE LEASE OF CONCESSION BOOTHS AT THE EAST KIMBERLEY REGIONAL AIRPORT in full and return these documents to the Shire prior to execution of the lease;</p> <p>2) the lease shall contain similar conditions to and have the same termination date as the other concession booth leases at the airport;</p> <p>3) the initial lease payment by Tuffy's Pty Ltd shall be adjusted to account for the lower lease fees charged to Tuffy's Pty Ltd after 1st February 2015 such that there is no commercial advantage to Tuffy's Pty Ltd in lease fees over the fees applicable to the other concession booth lessees;</p> <p>4) prior to execution of the lease, Tuffy's Pty Ltd shall make an ex-gratia payment of \$1500 to the Shire in addition to the lease or any other payments in recognition of Hertz's proportion of the additional costs to the Shire to prepare the lease and facilitate the leasing process.</p>	The lease documents have not been executed. Legal advice has been received and a report is expected to go to Council at its June meeting.	In Progress
OCM 24/02/15	Minutes of Council Committee Meetings	<p>That Council accepts the unconfirmed Minutes of the Audit (Finance and Risk) Committee Meeting held on 10/02/2015 with an amendment to:</p> <p>Minute AC330 – to include current ratios where available</p> <p>Minute AC343 – to be amended to:</p> <p>That the Council:</p> <p>1) Directs the A/CEO, or their delegate, to legally defend the Shire in the abovementioned minor case claim;</p> <p>2) Approves sufficient provision in the Mid- Year Budget Review to allow for associated legal fees; and</p> <p>3) Directs the A/CEO, or their delegate, to provide a report to the next Audit (Finance and Risk) Committee meeting outlining the current status of the matter.</p>	The second pre-trial conference date is tentatively set for 30 June 2015.	No

Meeting	Item	Resolution	Progress Comment	Completed
OCM 24/03/15	Consideration of a Customer Service Policy and Complaints Management Policy for Adoption	<p>That Council:</p> <ol style="list-style-type: none"> 1. Endorse the Customer Service Policy effective immediately; 2. Endorse the Complaints Management Policy effective immediately; 3. Directs the Acting Chief Executive Officer to seek public comment in relation to the Customer Service Policy and the Complaints Management Policy; 4. Notes that the Communications Policy resolved at the December Ordinary Meeting of Council has been separated into two policies, being the Customer Services Policy and a new Media Policy that is currently in development; 5. Notes that to ensure the appropriate implementation of a Customer Service Charter incorporating service standards, the Shire will require a significant review of procedures and systems to support its implementation and ongoing measurement against the standards set, which is not funded in 2014/15 and would need to be considered as part of the 2015/16 Budget Process. 	The Council endorsed a draft Customer Services Policy and Complaints Management Policy at the March OCM. Public comment is now being sought for a period of 28 days to be provided to the Council for consideration prior to the adoption of the Policies. The endorsed Policies have been communicated to staff and the leadership team, and are currently in use. The public comment period has now closed and a report will be provided to the June meeting for consideration.	No
OCM 24/03/15	Outdoor Dining Permit at Lot 614 Messmate Way, Kununurra	<p>That Council:-</p> <p>APPROVES the request submitted by Guillaume Tollec for an outdoor dining permit at Lot 641 (shop 5) Messmate Way, subject to compliance with the following conditions, to the satisfaction of Shire officers:</p> <ol style="list-style-type: none"> 1. The permit is valid for 12 months. 2. The applicant shall make payment of an Outdoor Dining permit fee, upon completion of the local public notice process and imposition of the fee into the Shire's Fees and Charges schedule. 3. The applicant shall be responsible for: <ol style="list-style-type: none"> i. Indemnifying the Shire in writing with regard to any claims that may arise in this public place. As such, the onus remains with the applicant to ensure that adequate Public Liability Insurance Cover is provided to a minimum of \$10 million. A copy of the trader's public liability insurance must be provided to the Shire of Wyndham East Kimberley prior to the trading date; ii. Ensuring that the dining use is conducted at all times in accordance with the provisions of the Shire's local laws; iii. Maintaining the furniture in the public place in a good, clean and serviceable condition at all times; iv. Removing all waste after trading hours conclude; and v. All costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the dining area. 	Applicant advised on 9 April 2015 of outcome of the March 2015 Ordinary Council Meeting and of the new fees adopted by Council.	No

Meeting	Item	Resolution	Progress Comment	Completed
OCM 24/03/15	Unnamed Creek Crossing - Victoria Highway	That Council: 1. Directs the Acting Chief Executive Officer to write to the MG Corporation to seek advice from the relevant Traditional Owners on the proposed formal naming of 'Philchowski Crossing', and potential indigenous naming of the creek. 2. Directs the Acting Chief Executive Officer to undertake research and compile supporting documentation to demonstrate Philchowski's contribution to the community or historical significance. 3. Endorses the proposed formal naming of 'Philchowski Crossing', and advises the Geographic Names Committee of its endorsement, subject to adequate supporting documentation being compiled and no objection being received from Traditional Owners.	Letter sent to MG Corporation dated 20 April to seek advice from relevant Traditional Owners. MG Corporation have acknowledged receipt of this letter and advised that the matter will be referred to the relevant MG Entity and Traditional Owner for comment, and a response will be provided in due course.	In progress
OCM 24/03/15	CONFIDENTIAL Ord River Sports Club Lease	That Council directs the Acting CEO or their delegate to offer a special payment arrangement with Ord River Sports Club Inc. for a period which does not extend beyond July 2020, being approximately 5 years, for the payment of outstanding rates and charges (\$19,799.71), if requested by the Club.	Notification of offer of special arrangement has been sent to the Ord River Sports Club. Awaiting a response.	In progress
OCM 28/04/15	Adoption of 2015/16 Elected Member Allowances and Fees and Charges	That Council: 1. Pursuant to section 6.16 of the Local Government Act 1995, adopts the fees and charges for 2015/16 outlined in Attachment 1 to be effective from either 1 July 2015 or 1 January 2016, whichever date is indicated in Attachment 1.	All fees and charges have been advertised accordingly. Elected Member Allowances still require a Council resolution. Awaiting SAT determination prior to re-presenting the item for Council's consideration.	No
OCM 28/04/15	Tender T04 14/15 Design and Construct Storage and Amenities Shed, Depot, Wyndham	That Council accept the tender submitted from East Kimberley Constructions, 35 Poinciana Street, Kununurra WA 6743, for Tender T04 -14/15 Design and Construction of Storage and Amenities Shed, Shire Depot, Wyndham, in accordance with the tender documentation for the Lump Sum Price of \$218,033 ex GST.	Contract in place and work commenced.	In Progress
OCM 28/04/15	WALGA Preferred Supplier eQuotes - ET02 14/15 Kununurra Airport Asphalt Surfacing Runway and Taxiway Intersections	That Council: 1. Accept the submission from Downer Infrastructure, 5 Marion Road, Maddington WA 6109 for ET02 14/15 Kununurra Airport Asphalt Surfacing Runway and Taxiway Intersections, in accordance with the tender document and their submitted schedule of prices for the lump sum price of \$4,684,813.60 ex GST; 2. Accept the Downer Infrastructure offer to transport B380 Binder using road tankers, resulting in savings to Council of \$95,000 ex GST off the lump sum price of \$4,684,813.60 ex GST; 3. Transfer \$200,000 from Airport Reserve Account to GL 04120734, Runway Asphalt Overlay, to cover contingencies and potential variations	Contract signed and contractor on site, works commenced.	In Progress
OCM 28/04/15	Endorsement of Draft Reviewed Policy CP_PMG-3780 Leasing of Council Managed Reserve	That Council endorse the reviewed Policy CP_PMG-3780 Leasing of Council Managed Reserve – Community for public advertisement for a period of 28 days. With the following amendment to the Draft Reviewed Policy: - Amend point 7 to read "The Shire at its discretion may request and assist with the preparation of the submission of a...."	Policy has been advertised on Shire website, Facebook and Kimberley Echo.	In Progress

Meeting	Item	Resolution	Progress Comment	Completed
OCM 28/04/15	Kununurra Agricultural Society Lease	<p>That Council subject to the payment in full of the invoice (\$10,000 plus GST) by Kununurra Agricultural Society Inc. or a signed special payment arrangement with Kununurra Agricultural Society for the above invoice (\$10,000 plus GST) offers the Kununurra Agricultural Society the amended Lease over portion of Reserve 29799, part Lot 504 Coolibah Drive, Kununurra, subject to the following:</p> <p>a) Lease term to be 21 years b) b) Commencement date to be 1 July 2015 c) Minister of Lands approval.</p>	Three copies of amended Lease provided to KAS along with letter summarising Council's decision and including copy of the Item minutes.	
OCM 28/04/15	Kununurra Agricultural Society Lease	<p>That Council subject to the payment in full of the invoice (\$10,000 plus GST) by Kununurra Agricultural Society Inc. or a signed special payment arrangement with Kununurra Agricultural Society for the above invoice (\$10,000 plus GST) offers the Kununurra Agricultural Society the amended Lease over portion of Reserve 29799, part Lot 504 Coolibah Drive, Kununurra, subject to the following:</p> <p>a) Lease rent to start at \$750 per annum plus GST for Community Use only; b) Rent to be reviewed every 3 years starting from 1 July 2018, or at such time that a Caravan Park and Camping Ground licence is approved c) Minister of Lands approval.</p>		
OCM 28/04/15	Council Policy Review	<p>That Council repeals the following policies:</p> <ul style="list-style-type: none"> - CP/HR18 Fitness for Work - CP/HR16 Superannuation - CMS 3 Percent for Art - CPF02 Loans to Community Organisations - MC16 Freeman of the Shire of Wyndham East Kimberley - MC17 Elected Member Induction Program - CPMC14 Community Recognition - F11 Cheque Signing Authority - CP/HR02 Members of Staff Code of Conduct - CP/OD-3300 Preferred Employer Policy - IT3 IT Software Acquisition & Installation - CPMC5 Elected Member Entitlements - F13 Libraries – Internet Use - F14 Environmental Funding Policy – Environmental Allocation Fund - E14 :Light Vehicle Purchase and Replacement Policy - E12 Plant and Vehicles – Change Over - FC3 Finance Assistance to Bush Fire Brigades - E8 Disposal of Councils Surplus/Redundant Equipment - E4 Refuse Site Management 	<p>Updated policy manual is being prepared and will be placed on the website once completed. Working with exec to confirm a schedule for policy reviews before December Working with exec to schedule new Organisational Directives required as per this Council item</p>	

Meeting	Item	Resolution	Progress Comment	Completed
OCM 28/04/15	Confidential - Legal Claim	<p>That Council;</p> <ol style="list-style-type: none"> 1. Notes the officer's confidential report and the progress of the General Procedure Claim, 2. Directs the CEO, or their delegate, to legally defend the matter on behalf of the Shire in the abovementioned General Procedure Claim, 3. Approves sufficient provision in the budget to allow for associated legal fees, and 4. Directs the CEO, or their delegate, to provide a report to Council on the status of the matter at the earliest opportunity. 	Pre-trial conference date set for 26 June 2015.	In Progress
OCM 28/04/15	Confidential - Disposal of Shire Residential Property	<p>That Council</p> <ol style="list-style-type: none"> 1. Direct the Chief Executive Officer or their delegate to engage one or more real estate agents to market 6 Eugenia Street, Kununurra and 67 Koojarra Street, Wyndham and bring forward an offer to Council to dispose of the property(s) by private treaty. 2. Direct the Chief Executive Officer or their delegate to lease vacant Shire residential properties. 	Pre-sale valuations being sought for the sale of the two properties; Tenancy Agreement being finalised for the rental of Shire residential properties.	No
SCM 23/04/15	Tender T09 – 14/15 Kalumburu Rd – Port Warrender Road Opening Grade.	That Council accept the tender submitted by Sunlight Holdings Pty Ltd, PMB 9, Kununurra WA 6743, for Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade in accordance with the tender documentation and their submitted schedule of prices.	Contract in place and works under way	in Progress

14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Motion from Cr Taylor

That the Council requests the CEO and all purchasing delegates:

1. Not to expend funds on any new projects until the 2015/16 Budget is adopted, unless:
 - a. in the case of an emergency whereby the emergency provision in section 6.8 of the *Local Government Act 1995* must be adhered to; or
 - b. the project has already been considered and approved by the Council to proceed.
2. To restrict the expenditure of funds in the interim to essential services that allow Shire operations to continue as per normal.
3. Expenditure outside of these guidelines to be approved by Council.

COUNCIL DECISION

Minute No.11010

Moved: Cr G Taylor

Seconded: Cr S Cooke

That the Council requests the CEO and all purchasing delegates:

1. **Not to expend funds on any new projects until the 2015/16 Budget is adopted, unless:**
 - a. **in the case of an emergency whereby the emergency provision in section 6.8 of the *Local Government Act 1995* must be adhered to; or**
 - b. **the project has already been considered and approved by the Council to proceed.**
2. **To restrict the expenditure of funds in the interim to essential services that allow Shire operations to continue as per normal.**
3. **Expenditure outside of these guidelines to be approved by Council.**

Carried Unanimously 8/0

15. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

16. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

Cr S Cooke declares a financial interest (husband owns and operates a contracting business with no machinery used to grade roads) in this item and leaves the Chambers at 7.32pm.

16.1 T09 – 14/15 KALUMBURU RD – PORT WARRENDER ROAD OPENING GRADE, AND MAINTENANCE GRADE

DATE:	23/06/2015
PROPONENT:	Shire Wyndham East Kimberley
LOCATION:	Kununurra
AUTHOR:	Peter Kerp, Manager Engineering Services
REPORTING OFFICER:	David Klye, Director of Infrastructure
FILE NO:	CM.16.130
DECLARATION OF INTEREST	Nil

PURPOSE

To advise Council of an omission in the T09 14 /15, Kalumburu Road and Port Warrender Road Opening Grade report presented to Council at its special meeting on of 23 April 2015.

BACKGROUND

At its special Council meeting on 23 April 2015 Council made the following decision;

COUNCIL DECISION

Minute No. 10872

Moved: Cr G Taylor

Seconded: Cr B Robinson

That Council accept the tender submitted by Sunlight Holdings Pty Ltd, PMB 9, Kununurra WA 6743, for Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade in accordance with the tender documentation and their submitted schedule of prices.

Carried 5/3

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr G Taylor

Against: Cr D Spackman, Cr K Wright, Cr G King

STATUTORY IMPLICATIONS

The recommendation of this report has been prepared in accordance with *The Local Government Act 1995 Section 3.57*,

POLICY IMPLICATIONS

The Shire of Wyndham East Kimberley's Purchasing Policy CP/FN-3204 applies.

FINANCIAL IMPLICATIONS

There are no financial implication associated with this report.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2012-2022

Goal 1: Strong leadership and governance that underpins a more strategic approach to community engagement, regional development and organisational sustainability

Objective 1.4: Business innovation, efficiency and improved service

Strategy 1.4.1: Ensure legislative compliance and follow best practice principles in planning and service delivery

COMMUNITY CONSULTATION

Mrs Anne Koeyers of Drysdale River Station has stated that *“Kalumburu Road is in a terrible state and needs grading immediately. It needs to be done now otherwise the tourists will get 10 km in and turn around and just not come back.”*

Mrs Susan Bradley provided an email *“to complain strongly about the unacceptable state of the Kalumburu Road. The corrugations are appalling.”* The full email is included in Attachment 1.

COMMENT

The T09 14/15 Kalumburu Road and Port Warrender Road Opening Grade item presented to Council at its special meeting on of 23 April 2015 makes reference to opening grade work only. The item omitted to include reference to maintenance grading work.

At the time of preparing the agenda item, the focus of Shire staff was to get the tender resolved and the contract issued as quickly as possible in order to meet public and tourist operator's expectations that Kalumburu Road and the Port Warrender Road would be open on 1st May 2015 to provide access to the Mitchell Falls. With the Council meeting on 23rd April this only left a few days to make the road safe to allow it to be opened, hence the concentration on the opening grade aspect of the works and the result that the Council agenda item mentioned only the opening grade and omitted any mention of the maintenance grading part of the works.

It is important to note that the Tender documents and the subsequent contract documentation at Section 3.2 clearly state that the work is for an *“Opening up Grade and subsequent maintenance grading later in the year”*. The ADDENDUM NO.1 – Response to Questions issued to all tenderers on 16th April states, *“The first portion of the works comprises an opening up grade which is estimated at only a few day's work and is required to be completed by 30 April 2015. Further significant maintenance grading will be required (and specified) later in the year.”*

The opening up grade has now been completed. Since completion of the opening grade, the Kalumburu Road traffic surface has deteriorated and is now in need of maintenance grading

attention. Two of the three station owners on Kalumburu Road have complained about the condition of the road surface.

It was considered important to clarify with Council the omission in the previous advice prior to commencement of any maintenance grading works under the current contract. Maintenance grading works on Kalumburu Road and Port Warrender Road are proposed to commence late this week.

ATTACHMENTS

Attachment 1 - Doongan Comment, State of the Kalumburu Road

VOTING REQUIREMENT

Simple Majority

OFFICER'S RECOMMENDATION

That Council;

1. Notes the officer's comments,
2. Notes that the Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade includes provision for maintenance grading works to Kalumburu Road and Port Warrender Road for the 2015 dry season,
3. Notes that maintenance grading works on Kalumburu Road and Port Warrender Road are proposed to commence late in the week of 22 June 2015.

MOTION

Cr D Spackman moves to defer the item.

COUNCIL DECISION

Minute No.11011

Moved: Cr D Spackman

Seconded: Cr G King

That Council defers the item 16.1 Tender T09-14/15 Kalumburu Rd – Port Warrender Road Opening Grade, and Maintenance Grade.

Lost 2/5

For: Cr D Spackman, Cr G King

Against: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr G Taylor

The Officer's Recommendation is considered:

COUNCIL DECISION

Minute No.11012

Moved: Cr G Taylor

Seconded: Cr R Dessert

That Council;

- 1. Notes the officer's comments,**
- 2. Notes that the Tender T09 14/15 Kalumburu Road - Port Warrender Road, Opening Grade includes provision for maintenance grading works to Kalumburu Road and Port Warrender Road for the 2015 dry season,**
- 3. Notes that maintenance grading works on Kalumburu Road and Port Warrender Road are proposed to commence late in the week of 22 June 2015.**

Carried 5/2

For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr G Taylor

Against: Cr G King, Cr D Spackman

Cr S Cooke enters the Chambers at 7.47pm.

From: [Doongan Theda](#)
To: [David Klye](#)
Cc: [Cr John Moulden](#)
Subject: State of the Kalumburu Road
Date: Monday, 22 June 2015 3:57:31 PM

Hi David,

I am writing to complain strongly about the unacceptable state of the Kalumburu Road. The corrugations are appalling. As one who has lived on this road for 15 years, it seems that each year it is getting worse rather than better.

Over the last fortnight, we have been called to rescue - 5 broken down vehicles (springs, shockies, wheels, axles) and seven trailers - some of which they have just had to abandon and ditch on the side of the road. We do not have a mechanical service at either Doongan or Theda and at the same time we can't just leave stranded complaining frightened people out there. It is getting to be beyond a joke.

It is totally irresponsible for the Shire or the Tourist Bureau to be advertising or promoting tourists to travel by road to the Mitchell Plateau.

Even listening to the message whilst waiting to be put through to your message bank - there is a friendly message espousing the wonders and beauty of the Mitchell Falls. Perhaps you should be recommending people fly.

If you could take a message from the people who decided to see for themselves the beauty by road - they certainly won't be back, and they certainly will be spreading the message of the worst road in Australia. They are leaving SWEK with a very bad taste in their mouths.

We are due to start mustering next week - I am worried that the mustering camp won't even make it over the corrugations, let alone the state of the cattle after 220 kms of bouncing around.

What are you plans? When can we expect the grader?

Regards,
Susan Bradley

Doongan and Theda Stations
PMB 8
Via Kununurra
WA 6743
(08) 9161 4328

COUNCIL DECISION

Minute No.11013

Moved: Cr B Robinson

Seconded: Cr G King

That Council moves behind closed doors to consider items:

- **17.1 Confidential – Request for Write Off of Waste Receptacle Charges – Rates Assessment A1160**
- **17.2 Confidential Item – Car Hire Booth Rental at East Kimberley Regional Airport**
- **17.3 Confidential Item – Probity Compliance Audit Report**

Carried Unanimously 8/0

Council moves behind closed doors at 7.48pm.

Cr G King and Cr B Robinson leave the Chambers at 7.48pm.

Cr G King and Cr B Robinson enter the Chambers at 7.50pm.

17. MATTERS BEHIND CLOSED DOORS

Cr G Taylor declares an impartiality interest (member of club) in this item.

Cr R Dessert declares an impartiality interest (member) in this item.

17.1 REQUEST FOR WRITE OFF OF WASTE RECEPTACLE CHARGES – RATES ASSESSMENT A1160

DATE:	23 June 2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Felicity Heading, Coordinator Financial Operations
REPORTING OFFICER:	Natalie Octoman, Director Corporate Services
FILE NO:	FM.11.1
ASSESSMENT NO:	A1160
DECLARATION OF INTERESTS:	NIL

The business of the meeting is of a confidential nature as it relates to the business affairs of a person. The item should be discussed Behind Closed Doors under Section 5.23(2)(c) and (e)(ii) as this is a matter that affects:

- c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- e) a matter that if disclosed, would reveal –
 - (ii) information that has a commercial value to a person.

PURPOSE

For the Council to consider a request from the ratepayer of assessment A1160 to write off part of the costs associated with the provision of waste collection services for a period when a service was not provided.

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No.11014

Moved: Cr G Taylor

Seconded: Cr R Dessert

That the Council:

- **Refuses the request for a write off of Waste Receptacle Charges of \$2,460.00 for Rates Assessment A1160 for the period from 1 August 2014 to 31 January 2015.**
- **Approves a partial write off of Waste Receptacle Charges of \$741.00 for Rates Assessment A1160 to be offset by a variation of \$741.00 in charges under the Shire's current waste collection contract.**

Carried Unanimously 8/0

17.2 CAR HIRE BOOTH RENTAL AT EAST KIMBERLEY REGIONAL AIRPORT

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	East Kimberley Regional Airport
AUTHOR:	Brian Sargeant Manager East Kimberley Regional Airport
REPORTING OFFICER:	David Klye, Director Infrastructure
FILE NO:	CP.16.25
ASSESSMENT NO:	N/A
DECLARATION OF INTERESTS:	Nil

This part of the meeting is of a confidential nature. The item will be discussed Behind Closed Doors in accordance with the *Local Government Act 1995*, Section 5.23 (2) as this item deals with a contract which may be entered into by the Shire.

PURPOSE

For Council to consider a commercial rental agreement.

VOTING REQUIREMENT

In accordance with Section 10 of the Local Government (Administration) Regulations 1996, any motion to revoke or change a previous decision of Council must be supported by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council inclusive of the mover.

Note: Presiding member to call for a show of hands to consider the revocation motion.

SHOW OF HANDS

Cr B Robinson, Cr D Learbuch, Cr S Cooke

VOTING REQUIREMENT

Absolute Majority

COUNCIL DECISION

Minute No.11015

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That Council revokes that part of its decision Minute number 10823 of 24 February 2015 reproduced below;

“execute a lease agreement with Tuffy’s Pty Ltd trading as East Kimberley Hirings and known as Hertz for a concession booth and 6 designated car parking bays at the East Kimberley Regional Airport subject to the following conditions:

- 1) for record purposes, Tuffy’s Pty Ltd shall satisfactorily complete a copy of the tender return documents for tender T3 14/15 TENDER FOR THE LEASE OF CONCESSION BOOTHS AT THE EAST KIMBERLEY REGIONAL AIRPORT in full and return these documents to the Shire prior to execution of the lease;*
- 2) the lease shall contain similar conditions to and have the same termination date as the other concession booth leases at the airport;*
- 3) the initial lease payment by Tuffy’s Pty Ltd shall be adjusted to account for the lower lease fees charged to Tuffy’s Pty Ltd after 1st February 2015 such that there is no commercial advantage to Tuffy’s Pty Ltd in lease fees over the fees applicable to the other concession booth lessees;”*

Carried Unanimously 8/0

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No.11016

Moved: Cr D Learbuch

Seconded: Cr B Robinson

That Council;

- 1) Supports the Chief Executive Officer's intention to notify withdrawal of the conditional approval for Tuffy's Pty Ltd to continue to have possession of Booth No.3 and 6 designated car parking bays under Section 11.6, the "Holding Over" provisions of its expired Lease with the Shire;**
- 2) Supports the Chief Executive Officer's intention to notify Tuffy's Pty Ltd in writing that its lease has been terminated in accordance with Section 11.6, the "Holding Over" provisions of its expired Lease with the Shire, and that Tuffy's Pty Ltd has 1 month to vacate Booth No.3 and 6 designated car parking bays at East Kimberley Regional Airport.**

Carried 7/1

**For: Cr J Moulden, Cr R Dessert, Cr D Learbuch, Cr B Robinson, Cr S Cooke,
Cr G Taylor, Cr G King
Against: Cr D Spackman**

17.3 PROBITY COMPLIANCE REPORT

DATE:	23/06/2015
PROPONENT:	Shire of Wyndham East Kimberley
LOCATION:	Shire of Wyndham East Kimberley
AUTHOR:	Monika Tonkin, Executive Assistant
REPORTING OFFICER:	Carl Askew, Chief Executive Officer
FILE NO:	CM.01.01
DECLARATION OF INTERESTS:	Nil

The business of the meeting is of a confidential nature as it relates to the business affairs of a person. The item will be discussed Behind Closed Doors under Section 5.23(2)(c) and (e)(ii) as this is a matter that affects:

- c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- e) a matter that if disclosed, would reveal –
- (ii) information that has a commercial value to a person.

PURPOSE

For Council to receive the Probity Compliance Audit Report and to consider the Implementation Strategy and the public release of the Report.

VOTING REQUIREMENT

Simple Majority

COUNCIL DECISION

Minute No.11017

Moved: Cr B Robinson

Seconded: Cr D Learbuch

That the Council:

- 1. Receives the Probity Compliance Audit Report as per confidential attachment 3.**
- 2. Endorses the Implementation Strategy as per confidential attachment 2.**
- 3. Notes the confidential legal advice as per attachment 1 and agrees to redact the names of the companies listed and the values of the tenders as part of recommendation 17.**
- 4. Endorses the public release of the amended Probity Compliance Audit Report and the Implementation Strategy and requests that the Chief Executive Officer make these available to the public in the Minutes of the June Council Meeting.**

Carried Unanimously 8/0



Government of **Western Australia**
Department of **Local Government and Communities**

**SHIRE OF WYNDHAM – EAST
KIMBERLEY**

2014

PROBITY COMPLIANCE AUDIT

REPORT

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EXECUTIVE SUMMARY

The Department of Local Government and Communities (DLGC) decided in August 2014 to conduct a limited Probity Compliance Audit at the Shire to examine the Shire's tender processes and contracts, as a result of various concerns being brought to its attention, including complaints from local business proprietors.

At about the same time, the Shire Council invited the Department to undertake a Probity Compliance Audit to determine whether the Shire's overall processes and procedures were of a standard expected of a local government, for the provision of good governance to persons in its district.

The probity compliance audit was conducted over the period 23, 24 and 25 September 2014.

During that visit relevant documents and registers were examined together with the Shire's processes and procedures. This report examines certain areas of statutory compliance and also comments on matters relating to administrative best practice.

It is considered that the main areas of concern identified in this Probity Audit relate to:

Standard of Statutory Record Keeping and General Compliance

The probity audit identified instances where the Shire is not maintaining proper records and internal controls are lacking. Issues identified during the probity audit suggest the Shire is not complying with its statutory obligations in a number of areas.

Issues identified include:

- The Shire's policy manual is out of date and is considered to be less effective in its current state and format to be of benefit to Council in supporting its decision making processes.
- Not having required statutory policies such as gifts to council members and payments to employees on finishing employment.
- Inadequate information in delegations for the purpose of providing sufficient detail that would support an effective delegation.
- An Electoral Gifts Register was not established and maintained as required by regulations.
- Not correctly recording the nature of interests in minutes of meetings or whether the nature of the interest had been disclosed.
- Deficiencies and omissions in annual financial returns with sections left blank and with incorrect return period dates.
- The form used by elected members to record Financial Interest disclosures does not facilitate compliance with legislative requirements.

Procurement Practices

The review of procurement practices has revealed apparent non-compliance with the Act and tendering and purchasing practices. Issues of concern identified are:

- Instances where the Shire has purchased goods and services and the contract consideration has exceeded the tender threshold of \$100,000, but tenders have not been invited.
- The tender register is not fully compliant with regulation 17(2) of the Local Government (Functions and General) Regulations 1996 as not all the required information is recorded in the register.

The probity audit was not an exhaustive examination of all matters. Some of the matters are breaches of the Act. Other matters on their own may not be serious issues, however, when considered together, the extent of non-compliance with the Act at both Council and officer level that was identified indicates that action is required to improve processes and procedures and achieve legislative compliance.

Having recently employed a new Chief Executive Officer, the Council has the opportunity to ensure that appropriate action is taken in regard to the recommendations made in this report.

It is noted that a review of risk management, legislative compliance and internal control, as required by Regulation 17 of the Local Government (Audit) Regulations 1996, was completed on behalf of the CEO and presented to the Audit Committee and Council in February 2015. Implementation of suggested improvements in the review report will also make substantial improvements to the standard of general compliance and control currently in place.

RECOMMENDATIONS TO SHIRE TO IMPLEMENT

The probity audit report makes 21 recommendations for implementation by the Shire of Wyndham – East Kimberley, based on the matters identified. These are:

Recommendation: 1

That the Council reviews the Shire of Wyndham – East Kimberley Standing Orders Local Law 2003, to reflect current best practice and assist in the effective and efficient conduct of meetings of Council.

Recommendation: 2

That the Council adopts a more comprehensive agenda report format as provided at Appendix 1 to this report, to be used for all agenda reports to Council.

Recommendation: 3

That Council and senior staff familiarise themselves with the DLGC's Operational Guideline No. 07 'Clarity in Council Motions' to assist in producing officer recommendations, and resolutions passed by Council, that clearly describe the expected outcome, how it is to be achieved, by when, by whom and at what cost.

Recommendation: 4

That Council directs the CEO to remove the elected member and CEO information reports, currently included under item heading "13. Reports", from meeting agenda's and includes those reports in a separate councillor information bulletin.

Recommendation: 5

That Council re-visits any recommendations made to Council by the Audit (Finance and Risk) Committee and subsequent actions taken by the administration to ensure that those actions have the necessary authorisation.

Recommendation: 6

That in future the Council receives minutes of meetings of the Audit (Finance and Risk) Committee meetings and adopts or rejects any Committee recommendations by a decision of Council.

Recommendation: 7

That the CEO ensures that in order to be readily identified, disclosures of interest recorded in meeting minutes are recorded at the beginning of the agenda item in question, rather than at the end of the previous agenda item.

Recommendation: 8

That relevant council members and employees make the necessary corrections to time periods, dates, missing signatures and blank sections of their returns by amending each return or replacing the return with the correct information where applicable.

Recommendation: 9

That the CEO implements a process to check completed financial interest returns, with any discrepancies being brought to the attention of the relevant elected member or staff member for correction.

Recommendation: 10

That council members and senior employees receive training on the completion and recording of information in financial interest returns.

Recommendation: 11

That the CEO reviews which employee positions should be required to complete Primary and Annual Returns.

Recommendation: 12

That council members and key staff receive training regarding the statutory requirements for disclosure of interests in meetings and the recording of the details of disclosures in the minutes of the meetings relating to those disclosures.

Recommendation: 13

That the CEO prepares a form that assists elected members to comply with the legislative requirements for the disclosure of interests in meetings.

Recommendation: 14

That the CEO reviews the Shire's 2014/15 Delegations Register as a matter of urgency, for consideration and adoption by Council, in order to remove unnecessary delegations and to improve the standard of information contained in delegations recorded in the Register.

Recommendation: 15

That the Council adopts a process and timetable for a structured review of all Council's policies, including a requirement for all policies to be reviewed at least every 4 years.

Recommendation: 16

That Council arranges for the completion of a comprehensive review of its policies and adopts those reviewed policies by 30 June 2015. In meeting that timeframe Council may wish to consider engaging a consultant to complete the review.

Recommendation: 17

That Council directs the CEO to review the Shire's purchasing and procurement procedures to ensure that contracts for goods and services that are \$100,000 or more and not exempt, are subject to a tender process in accordance with Regulation 11 of the *Local Government (Functions and General) Regulations 1996*.

Recommendation: 18

That the CEO reviews the procedures and practices concerning the recording of information required by Regulation 17 of the *Local Government (Functions and General) Regulations 1996* to ensure that the Tender Register complies with the regulations.

Recommendation: 19

That responsibility for the oversight of all contracts and procurement including tenders undertaken by the Shire be allocated by the CEO to a single Director, to ensure consistency of process and compliance with the requirements of the Local Government Act 1995 and the *Local Government (Functions and General) Regulations 1996*.

Recommendation: 20

That the Council ensures that employment contracts for the CEO and Senior employees include appropriate performance criteria and that performance reviews are completed at least once for each year of the contract.

Recommendation: 21

That the CEO ensures that gift, electoral gift registers are established and maintained as required by legislation and that the Shire's complaints officer is aware of the legislative requirements related to the processing and reporting of complaints, including the establishment of a complaints register.

1. INTRODUCTION

The Shire of Wyndham – East Kimberley covers an area of 121,189 square kilometres, is situated in the Kimberley region 3,215 km North of Perth and has a population of 7,799. The district is made up of seven Towns and localities which include Crossing Falls, Kalumburu, Kununurra, Lake Argyle, Lakeside, Packsaddle and Wyndham. The towns of Kununurra and Wyndham are the main population centres. The 2011 ABS census has a population of 4,573 in Kununurra and 787 in Wyndham. The major local industries are Tourism, Agriculture, Mining, Aquaculture and port facilities at Wyndham.

The Wyndham – East Kimberley Shire Council consists of nine elected members with no wards. The Shire administration office is located in the Kununurra town site, the Shire's total revenue is approximately \$35.5 million and it has approximately 110 employees.

The Probity Compliance Audit was conducted by DLGC officers, Ms Jenni Law, Director Local Government Regulation and Support and Mr Andrew Borrett, Senior Project Officer, who visited the Shire's offices in Kununurra on 23, 24 and 25 September 2014 to undertake the Probity Compliance Audit.

As a result of the Probity Compliance Audit, this report has been prepared which deals with the probity processes of the Shire and examines its standards of compliance with the *Local Government Act 1995* (the Act) and associated regulations in relation to those processes. The report makes specific recommendations in circumstances where the Shire is not compliant with statutory requirements. The report also makes recommended process improvements where the Shire's processes do not appear to reflect best practice.

It should be noted that the Probity Compliance Audit was conducted over a period of only three days and does not represent a detailed examination of any specific issues that may need addressing by the Shire.

2. THE IMPORTANCE OF PROBITY

Probity is the evidence of ethical behaviour in a particular process. Probity is defined as complete and confirmed integrity, uprightness and honesty. It contributes to sound processes that accord equal opportunities for all participants.

Processes must be conducted with probity in mind to enable all parties to deal with each other on the basis of mutual trust and respect. Adopting an ethical, transparent approach enables the business of government to be conducted fairly, reasonably and with integrity. Probity rules must be clear, open, well understood and applied equally to all parties to the process.

It is accepted that conflicts of interest may arise in the course of business operations, especially during the decision making process. Possible conflicts are extremely varied but include pecuniary (financial) and non-financial interests, associations with external groups or bodies and non-direct personal interests. In carrying out one's

duties, public officials must not allow themselves to be improperly influenced by family, personal or business relationships.

Maintaining a high level of probity in a local government's processes protects the reputation of not only the Council, but also the administration. This is important as a local government's activities involve the management and control of public money, and may be subject to considerable public scrutiny.

3. SCOPE OF THE AUDIT

The following areas of compliance were examined for the purpose of the Audit and specifically for the period 1 November 2013 to 30 September 2014. It should be noted that in some instances it was necessary to examine information outside that time frame:

- Decision Making: Meeting Agenda and Minutes;
- Financial Interest Register – Disclosures at Meetings and in Returns;
- Register of Delegations;
- Policies – Policy Manual;
- Purchasing, Procurement and Tendering;
- CEO and Senior Employee Contracts; and
- Other Registers

This report identifies a number of matters but is not an exhaustive examination of all the compliance issues identified as a result of conducting the Probity Compliance Audit.

4. STATUTORY COMPLIANCE

The following is concluded from an examination of the registers and documents listed in the above scope of the Audit. Specific matters of concern identified in this probity audit are:

- The Council decision making structure and practices;
- The standard and manner of general and statutory record keeping by the Shire, especially in relation to recording information in registers, such as the Register of Delegations, Tender Register and Register of Financial Interest;
- Council Policies which are in need of review; to include legislative references and relevancy;
- Procurement and purchasing processes and procedures followed by the Shire including tendering.

5. DECISION MAKING: MEETING AGENDA AND MINUTES

The Shire of Wyndham - East Kimberley has a council meeting on the fourth Tuesday of each month. Supporting the council's decision making framework is one standing committee, being the Audit (Finance and Risk) Committee that meets bi-monthly, with a membership of four elected members.

Statutory Requirements

Section 5.3 of the Act states:

5.3 Ordinary and special council meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.
 (2) Ordinary meetings are to be held not more than 3 months apart.

Section 5.8 of the Act states:

5.8 Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* Absolute majority required.

Regulation 11(da) of the *Local Government (Administration) Regulations 1996* states that the minutes of a council or committee meeting must include:

written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

Generally council meetings commence at 5:00pm on the fourth Tuesday of each month and average between 2 and 3 hours in duration. The monthly meetings are held in the Shire's council chambers in Kununurra, with every third monthly meeting held in Wyndham.

The Shire has Standing Orders (*Shire of Wyndham – East Kimberley Standing Orders Local Law 2003*) to guide the conduct of meetings.

Issues Identified

The Shire's standing orders local law has been in place since 2003 and needs to be reviewed to reflect meetings best practice and amend or remove clauses that merely repeat the requirements of the *Local Government Act 1995* and its Regulations.

The standing orders could include matters related to the establishment of committees and the management of public question time.

Recommendation: 1

That the Council reviews the *Shire of Wyndham – East Kimberley Standing Orders Local Law 2003*, to reflect current best practice and assist in the effective and efficient conduct of meetings of Council.

5.1 Agenda Report and Recommendations

Regulation 11(da) of the *Local Government (Administration) Regulations 1996* implies that employees should provide written recommendations for council to consider.

Local government employees are employed for their expertise, qualifications and experience upon which council should be able to rely for well-researched professional advice in the form of a written recommendation that supports an open, responsible and informed decision making process.

Section 5.41(a) & (b) of the Act requires a local government CEO to advise the council in relation to the functions of a local government under the Act and other legislation. The CEO's responsibility is to ensure the provision of unbiased, relevant, professional advice and information to elected members for their decision making purposes.

This is achieved by written reports that become a very important part of the agenda for council and committee meetings and provide the basis for the decisions and the meeting minutes of the local government.

Issues Identified

While a structured agenda report format is in use, it does not include all the report headings that are recommended to ensure that employees who write reports thoroughly consider the implications of matters on which elected members are required to make decisions. A more comprehensive agenda report format should be used consistently across the organization for all agenda reports.

Suggested additional report headings include 'Disclosure of Interest', 'Nature of Council's Role in the Matter' and 'Risk' added to the implications list. A recommended agenda report format is at **Appendix 1**.

Recommendation: 2

That the Council adopts a more comprehensive agenda report format as provided at Appendix 1 to this report, to be used for all agenda reports to Council.

Recommendation: 3

That Council and senior staff familiarise themselves with the DLGC's Operational Guideline No. 07 'Clarity in Council Motions' to assist in producing officer recommendations, and resolutions passed by Council, that clearly describe the expected outcome, how it is to be achieved, by when, by whom and at what cost.

5.2 Agenda Report Format

The agenda report format in use includes, under item heading 13. Reports, Elected member Reports and Chief Executive Officer Reports, which are basically a record of meetings and various functions that elected members and the CEO have attended since the last Council meeting. This tends to generate discussion that is not related to matters on the agenda requiring a decision of council.

Issues identified

Such reports are for information only and as they do not require a decision of Council, do not need be included in the meeting agenda. They should be included in a separate information bulletin that can be provided with, or separately to, the meeting agenda. If councillors wish to raise a matter from an information bulletin with the view to having council make a decision, that matter should become the subject of an agenda report.

Recommendation: 4

That the Council directs the CEO to remove the elected member and CEO information reports, currently included under item heading "13. Reports", from meeting agenda's and includes those reports in a separate councillor information bulletin.

5.3 Committee meeting minutes

Minutes of the bi-monthly Audit (Finance and Risk) Committee meetings are presented to the next Ordinary Council meeting where it appears that by confirming the minutes the Council believes that it has passed the recommendations coming out of the committee as decisions of Council. The decisions made in the Committee meeting were in the form of recommendations to Council, therefore Council should have made a decision to adopt or reject the Committee's recommendations. Council cannot 'confirm' the minutes of the Audit (Finance and Risk) Committee, as only the committee can confirm the minutes as a correct record of its meeting (which it does).

Issues identified

The minutes of the Audit (Finance and Risk) Committee meetings should be received by the Council and any recommendations either adopted or rejected by a decision of Council.

It is noted that advice was requested by the Shire from the Department of Local Government and Communities in April 2014 as to whether council members could confirm the minutes of audit committee meetings.

The original query had been as to:

- whether council members could accept minutes from Audit Committee meetings if they were not present at the meeting, or not a council member at the time; and
- whether council members could confirm minutes from Audit Committee meetings if they were not present at the meeting, or not a council member at the time.

The advice given by the Department was then provided to council members as quoted in the following extract from the minutes of the council meeting of 27 May 2014.

Advice was sought from the Department of Local Government, on the following two points:

1. Can Council members accept Minutes from Audit Committee meetings if they were not present at the meeting and/or not a Council member at the time?
2. Can Council members sign to confirm Minutes from Audit Committee meetings if they were not present at the meeting and/or not a Council member at the time?

The Answer received was as follows:

"The answer is yes in both cases. This is established by common law around meeting procedure rather than legislation particular to local government. Most references on the subject (we usually refer to Joske's Law and Procedure at Meetings) indicate that the only basis for refusing to accept or confirm minutes is a specific belief that they are inaccurate.

Joske recommends that it's customary, but not essential, for an acceptance/confirmation motion to be moved by someone who was present at the meeting. This simply reiterates that, when voting to accept or confirm minutes, a member isn't taking personal responsibility for the accuracy of the minutes. He or she is simply accepting that those who were present and prepared the minutes have provided an accurate record. In other words, if anyone wishes to question the accuracy, they should put forward an argument as to why the minutes shouldn't be considered accurate, as opposed to waiting for someone to convince them that they are.

(Some local governments emphasise this point of common law by actually including in their standing orders a requirement that members refusing to accept the accuracy of minutes must move the amendments they believe are required in order for them to be accurate. In other words, the onus is on the person questioning the accuracy to demonstrate what the inaccuracy is.)"

Some of the context of the Department's advice appears to have been lost, given that the original advice, provided by email on 30 April 2014, included a disclaimer at the end of the first sentence as follows:

The answer is yes in both cases (assuming that in the second case, you're referring to council members at an audit committee meeting confirming the minutes of a previous meeting of that committee).

Omission of the formal approval of recommendations causes a problem in that the recommendations, made by the Committee to do certain things, have not actually been subsequently agreed to and adopted by Council.

12. MINUTES OF COUNCIL COMMITTEE MEETINGS

12.1 CONFIRMATION OF MINUTES OF AUDIT (FINANCE AND RISK) COMMITTEE OF 13 MAY 2014

RECOMMENDATION

That Council confirms the Minutes of the Audit (Finance and Risk) Committee Meeting held on 13 May 2014.

COUNCIL DECISION

Minute No. 10413

Moved: Cr K Wright

Seconded: Cr B Robinson

That Council confirms the Minutes of the Audit (Finance and Risk) Committee meeting held on 12 May 2014.

Carried Unanimously 9/0

Just confirming the Minutes of the Audit (Finance and Risk) Committee, which Council does not have the power to do, does not achieve the adoption of the Committee's recommendations as is probably intended. For example, at the Committee meeting held 12 May 2014, it was recommended to Council that rates debts of around \$199,790 be written off (see following page).

The Council's response to 'confirm' the minutes of the Committee meeting at the Council meeting held on 27 May 2014 does not authorise the writing off of these outstanding rates.

MOTION

Cr K Wright moves that Items 6.5 – 6.8 be dealt with *en bloc*.

COMMITTEE RESOLUTION

Minute: AC300

Moved: Cr J Moulden

Seconded: Cr B Robinson

That the Officer's recommendations under Items 6.5 – 6.8 inclusive be adopted as an *en bloc* resolution.

Recommendation No. 1

That the Audit (Finance and Risk) Committee recommends to Council to write-off outstanding rates and debt collection charges on assessments A7306 and A7307, estimated at \$21,456.43 at the time of writing this report.

Recommendation No. 2

That The Audit (Finance and Risk) Committee recommends to Council to write-off outstanding rates and debt collection charges on assessment A7308, A7309 and A7467, estimated at \$47,931.26 at the time of writing this report.

Recommendation No. 3

That the Audit (Finance and Risk) Committee recommends to Council to write-off outstanding rates and debt collection charges on assessments A7310 and A7311, estimated at \$44,987.79 at the time of writing this report.

Recommendation No. 4

That The Audit (Finance and Risk) Committee recommends to Council to write-off outstanding rates and debt collection charges on assessments A7312, A7313, A7314 and A7315, estimated at \$85,417.78 at the time of writing this report.

Carried Unanimously by *En Bloc* Resolution 4/0

Where a Committee resolves to make recommendations to Council as above, those recommendations should be communicated to Council in full within the next Council agenda.

Discussions between the Shire and the Department since the initial conduct of the Probity Compliance Audit have included the question of how Committee recommendations should be reported to Council.

The Department's preferable and suggested practice is that Committee resolutions be presented in a separate report when they form recommendations for subsequent Council decisions.

The minimum required practice is that Council, following consideration of each recommendation, pass resolutions that clearly indicate which recommendations are supported (by absolute majorities when required) and which are not.

Recommendation: 5

That Council re-visits any recommendations made to Council by the Audit (Finance and Risk) Committee and subsequent actions taken by the administration to ensure that those actions have the necessary authorisation.

Recommendation: 6

That in future the Council receives minutes of meetings of the Audit (Finance and Risk) Committee meetings and adopts or rejects any Committee recommendations by a decision of Council.

5.4 Council meeting minutes - presentation

Minutes of the Council's Ordinary monthly meetings are extensive with attachments included. Disclosures of interest made by elected members have been recorded appropriately at the commencement of meetings. The format of the minutes is confusing, however, where disclosures of interest made by elected members are recorded at the end of the previous agenda item, rather than at the beginning of the agenda item to which the disclosure relates. When agenda report attachments are included in the minutes, the result can be that the interest disclosure and the related item can be many pages apart.

Issues identified

In order to be readily identified, disclosures of interest recorded in meeting minutes need to be recorded at the beginning of the item in question, rather than at the end of the previous agenda item.

Recommendation: 7

That the CEO ensures that in order to be readily identified, disclosures of interest recorded in meeting minutes are recorded at the beginning of the agenda item in question, rather than at the end of the previous agenda item.

6. FINANCIAL INTEREST REGISTER – DISCLOSURES AT MEETINGS AND IN RETURNS

The CEO keeps a Register of Financial Interests that contains the Primary and Annual Returns for Council members and employees. The Register also contains some declarations of interest for financial interest disclosure made at meetings. All Primary and Annual returns for current Council members and employees were contained in the Register.

Statutory Requirements

Section 5.65 of the Act states:

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:*
- (a) in a written notice given to the CEO before the meeting; or*
 - (b) at the meeting immediately before the matter is discussed.*

Section 5.68 of the Act states:

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter:*
- (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if:*
 - (i) the disclosing member also discloses the extent of the interest; ...*

Section 5.73 of the Act states:

A disclosure under section 5.65 or 5.70 is to be recorded in the minutes of the meeting relating to the disclosure.

Section 5.75 of the Act states:

- (1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.*
- (2) A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.*

Section 5.76 of the Act states:

Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.

Section 5.88 of the Act states:

- (1) A CEO is to keep a register of financial interests.*
- (2) The register is to contain:*
 - (a) the returns lodged under section 5.75 and 5.76; and*
 - (b) a record of the disclosures made under sections 5.65, 5.70 and 5.71, and be in the form that is prescribed (if any).*

Regulation 11(2) of the *Local Government (Rules of Conduct) Regulations 2007* states:

A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest:

(a) in a written notice given to the CEO before the meeting; or

(b) at the meeting immediately before the matter is discussed.

6.1 Disclosure of Interests in Returns

All Council member returns were contained in the Register, however the quality of the information recorded in the returns was below standard.

The following anomalies and discrepancies were noted in elected members' and employees' returns:

- Blank sections left in Annual and Primary Returns;
- Incorrect date for completion of 2014 Annual Return by Cr Robinson i.e. dated 30 June 2015, not 30 June 2014;
- Blank or no notation/reference in sections of the Annual Return;
- Insufficient detail concerning real property interests that identifies address of property;
- Information on current interests not being clearly disclosed i.e. where income sources remain unchanged no clear declaration that interests are still current in more recent returns;

Issues identified

Many of the Primary and Annual Returns of Elected members and employees are incomplete and not prepared to the extent required by the Act.

As well as the Register containing Primary and Annual Returns for elected members, it contains Returns for 61 employees in positions ranging from the CEO to Customer Services Officer.

It is doubtful that the requirements of the *Local Government Act 1995* would require all of these employees to complete Primary and Annual Returns.

Recommendation: 8

That relevant Council members and employees make the necessary corrections to time periods, dates, missing signatures and blank sections of their returns by amending each return or replacing the return with the correct information where applicable.

Recommendation: 9

That the CEO implements a process to check completed financial interest returns, with any discrepancies being brought to the attention of the relevant elected member or staff member for correction.

Recommendation: 10

That council members and senior employees receive training on the completion and recording of information in financial interest returns.

Recommendation: 11

That the CEO reviews which employee positions should be required to complete Primary and Annual Returns.

Note: An on-line training webinar 'Financial Interests – Completing Financial Interest Returns' is available on the DLGC website.

6.2 Disclosure of Interests at Meetings

The minutes of council meetings were examined which indicated that declarations of interest by council members are being recorded in the minutes for various matters.

There are two fundamental types of interest that a person (either a council member or employee) is required to disclose and those disclosures must be recorded in the minutes of the meeting.

The type or nature of an interest can either be a financial interest, which includes a direct, indirect interest or a proximity interest or a non-financial interest known as an impartiality interest.

Statutory Requirements

The following provisions of the Act relate to the declaration of interest at council meetings.

Section 5.65 of the Act states:

5.65 Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

Section 5.67 of the Act states:

5.67 Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter, unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

Section 5.70 of the Act states:

5.70 Employees to disclose interests relating to advice or reports

(1) In this section:

employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

(3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

Penalty: \$10 000 or imprisonment for 2 years.

Section 5.73 of the Act states:

5.73 Disclosures to be minuted

A disclosure under section 5.65 or 5.70 is to be recorded in the minutes of the meeting relating to the disclosure.

Section 5.88 of the Act states:

5.88 Register of financial interests

(1) A CEO is to keep a register of financial interests.

(2) The register is to contain:

(a) the returns lodged under section 5.75 and 5.76; and

(b) a record of the disclosures made under sections 5.65, 5.70 and 5.71, and be in the form that is prescribed (if any).

Section 5.21 of the Act also provides:

5.21 Voting

(1) Each council member ... who is present at a meeting of the council ... is entitled to one vote.

(2) Subject to section 5.67, each council member ... who is present at a meeting of the council ... is to vote.

(5) A person who fails to comply with subsections (2) or (3) commits an offence.

Issues Identified

The following are examples of disclosures of interest made by council members and recorded in the minutes of the relevant meetings:

Extract from the minutes of the Ordinary Council Meeting of 23 September 2014:

6.3. DECLARATION OF INTEREST (page 6)

- Financial Interest

Cr D Spackman declared a financial interest to item 13.2.4 T01 14/15 Flood Recovery Works – Drainage Channel Works & 13.3.4 Takeaway Alcohol Management System Funding Request

- Proximity Interest

Cr K Wright declared a proximity interest to item 13.2.4 T01 14/15 Flood Recovery Works – Drainage Channel Works as Director of company that owns land adjacent

Cr B Robinson declared a proximity interest to item 13.3.2 Development Application for Educational Establishment at Lot 359 Argentea Avenue, Kununurra as Cr Cooke [sic]

Cr D Learbuch declared a proximity interest to item 13.3.2 Development Application for Educational Establishment at Lot 359 Argentea Avenue, Kununurra as applicant is a fellow Councillor.

At the commencement of this meeting (page 6 of the Minutes), Cr Spackman is recorded as disclosing a financial interest in item 13.2.4. This disclosure was again recorded at the end of item 13.2.3 (page 82) as applying to the next agenda item, however item 13.2.4 does not commence until page 88 of the Minutes. This makes it difficult to connect disclosures with the relevant agenda items. It can be established from the minutes, however, that Cr Spackman left the meeting prior to discussion of this item and did not vote.

Cr Wright was also recorded on page 7 as disclosing a Proximity interest in item 13.2.4, however this disclosure is not repeated at the commencement of item 13.2.4 as required by s. 5.66 of the Act and Cr Wright is not recorded as leaving the meeting as required by s. 5.67, but is recorded as voting, confirmed as occurring by Department observers in attendance. Similarly, Crs Robinson and Learbuch disclosed a Proximity Interest in item 13.3.2 but remained in the meeting and voted.

Further examples of this disclosure of a Proximity Interest, remaining in the meeting and voting, are recorded in the Minutes of the Ordinary meetings of Council held on 27 May 2014 (Crs Spackman and Wright), 24 June 2014 (Crs Moulden and Robinson) and 29 July 2014 (Cr Learbuch).

At a later discussion, councillors indicated that they had been advised by an independent training consultant that this was the correct way to deal with Proximity Interest disclosures.

A check of meeting minutes since September 2014 indicates that the understanding of elected members related to interests that need to be disclosed in meetings has improved, however the recording of interests, disclosed at the commencement of the meeting, is still not occurring at the time in the meeting that the related item is announced for Council's consideration.

The current form that elected members are using to disclose interests at meetings may be contributing to the confusion related to proximity interests, as it could be misunderstood to place financial and impartiality interests together above proximity interests.

The form also refers to 'Description of Interest', which should describe the "extent of the interest".

A sample form is provided at **Appendix 2**.

Conclusion

The standard of the information provided in financial interest returns requires improvement and information recorded in the minutes of meetings in relation to disclosures of interest is not compliant with the Act.

Recommendation: 12

That council members and key staff receive training regarding the statutory requirements for disclosure of interests in meetings and the recording of the details of disclosures in the minutes of the meetings relating to those disclosures.

Recommendation: 13

That the CEO prepares a form that assists elected members to comply with the legislative requirements for the disclosure of interests in meetings.

Note: An on-line training webinar 'Declaring Interests in Meetings' is available on the DLGC website.

7. REGISTER OF DELEGATIONS

A Register of Delegations to the CEO is kept by the CEO of the Shire of Wyndham – East Kimberley which contains delegations adopted by Council in August 2014.

Statutory Requirements

Section 5.18 of the *Local Government Act 1995 (Register of delegations to committees)* states:

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

Section 5.46 of the *Local Government Act 1995 (Register of, and records relevant to, delegations to CEO and employees)* states:

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*

Section 5.42 of the *Local Government Act 1995 (Delegation of some powers and duties to CEO)* provides:

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under:*
 - (a) *this Act other than those referred to in section 5.43; or*
 - (b) *the Planning and Development Act 2005 section 214(2), (3) or (5).*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

Section 29 of the *Dog Act 1976 (Power to seize strays, etc.)* provides:

- (1) *A local government shall, in writing, appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by this Act.*
- (2) *No proceedings, whether civil or penal, shall lie against:*
 - (a) *any person assisting an authorised person or a police officer, at his request and in accordance with his directions; or*
 - (b) *the owner or occupier of any premises for the time being used to detain a dog pursuant to this Act, in respect of any act, matter or thing done or omitted to be done in good faith for the purposes of carrying out the provisions of this Act.*

Section 14B(1) of the *Bush Fires Act 1954* includes the following definition of 'authorised person':

authorised person means a bush fire liaison officer or another person who is given an authorisation and includes a person acting under an authorised person's orders and directions under section 13(6);

Numerous sections of the *Bush Fires Act 1954* provide an authorised person with specific statutory powers.

Sections 3 and 38 of the *Control of Vehicles (Off-road Areas) Act 1978* provide as follows:

3. Terms used

- (1) In this Act unless the contrary intention appears:
authorised officer means a person to whom section 38(1) applies;

38. Authorised officers, who are, functions of etc.

- (3) A local government may by resolution appoint:
(a) any employee of the local government; and
(b) where the Minister by notice published in the *Government Gazette* authorises the local government to do so, any member of the council of that local government, to be an authorised officer for the purposes of this Act either in respect of the whole of its district or any part thereof defined in the appointment.

Sections 5 and 17 of the *Caravan Parks and Camping Grounds Act 1995* provide as follows:

5. Interpretation

- (1) In this Act unless the contrary intention appears:
authorised person means an authorised person appointed under section 17;

17. Appointment of authorised person

- (1) The chief executive officer of the Department or a local government —
(a) may appoint such persons to be authorised persons for the purposes of this Act as the chief executive officer or the local government considers necessary;

Sections 5 and 26 of the *Litter Act 1979* provide:

5. Terms used

- (1) In this Act unless the contrary intention appears:
authorised officer means a person to whom section 26(1) applies;

26. Authorised officers, appointment and jurisdiction of etc.

- (1) For the purposes of this Act an authorised officer is:
(c) within the district of a local government, any person who is:
(i) a member of the council of the local government; or
(ii) an employee of the local government; or
(iii) an honorary inspector appointed by the local government under section 27AA.

Issues identified

A record of all delegations to the CEO and to employees is to be kept in the Register of Delegations (the Register).

It is noted that some delegations in the Register are unnecessary as the performance of such a power or duty is already provided for in the applicable legislation. For example:

2. COPIES OF INFORMATION

LEGISLATIVE POWER Local Government Act 1995 Section 5.42 & 5.96

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Delegated authority to ensure, under section 5.96 of the *Local Government Act 1995*:

1. that copies of information are available to persons who are entitled to request the information under Division 7, Part 5 of the Act, and
2. that the price at which the copies are sold does not exceed the cost of providing the copies.

6. PREPARE ELECTORAL ROLLS & ELIGIBILITY FOR ENROLMENT

LEGISLATIVE POWER Local Government Act Section 4 and 5

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Delegated authority to prepare owners and occupiers rolls, call for applications for eligibility for enrolment and to determine any applications received.

Other delegations are unclear and need to be specific as to their intention. For example:

3. AUTHORITY TO SIGN & CERTIFY DOCUMENTS & LETTERS

LEGISLATIVE POWER Local Government Act 1995, Section 9.49A(4) and 9.31

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Delegated authority to sign, on behalf of the Shire, a document that is necessary or appropriate for carrying out functions under any written law.

Delegated authority to certify a copy of a local law of the Shire, or a copy of any other document of or adopted by the Shire, to be a true copy.

Delegated authority to sign letters that relate to normal operations, are the result of a Council decision or are permitted by another delegation or a Council policy.

Issues identified

The standard of information recorded in the Register requires improvement. There is no indication of any sub-delegations by the CEO to other employees. There is minimal information included for each delegation and some are not clear on what powers are being delegated.

The Department notes that, since the initial Probity Compliance Audit was completed, the Shire has commenced corrective action in this regard, and is taking steps to implement the following recommendation.

Recommendation: 14

That the CEO reviews the Shire's 2014/15 Delegations Register as a matter of urgency, for consideration and adoption by Council, in order to remove unnecessary delegations and to improve the standard of information contained in delegations recorded in the Register.

8. POLICIES – POLICY MANUAL

The Shire has a significant number of policies under the headings of Community, Development Control, Engineering, Finance, Human Resources, Information Technology, Leasing of Council Managed Reserve Land, Members of Council, O S & H and Records Management.

Statutory Requirement

Section 2.7 of the Act states the role of Council to be as follows:

2.7 Role of council

- (1) *The council:*
 - (a) *governs the local government's affairs; and*
 - (b) *is responsible for the performance of the local government's functions*
- (2) *Without limiting subsection (1), the council is to:*
 - (a) *oversee the allocation of the local government's finances and resources; and*
 - (b) **determine the local government's policies.** (emphasis added)

Issues identified

The Shire has Policies covering a range of matters. While the probity audit undertook a review of policies, only a cursory review was made of the appropriateness or content of those policies.

The Policy Manual that was made available contained several versions of policies and did not clearly indicate which were current, or when the policies were adopted or reviewed by Council. Some policies are also available to be viewed on the Shire's website.

The Council Policies sighted during the Probity Audit included many that have not been reviewed for some time and which were not up to date. It was noted that a review of some policies by Shire officers was underway.

Local governments are required to have a policy related to 'payments to employees in addition to contract or award', prescribed by section 5.50 of the Local Government Act, however this policy was not sighted and not on the Shire website.

While some policies were adopted or reviewed in 2014, particularly in the Engineering and Finance area, a number of policies have not been reviewed since 2004 or 2006.

Policies not reviewed for some time included:

- *Policy RM1 – Records Management* – adopted by Council 17 October 2006;
- *Policy MC17 – Elected Member Induction Program* – adopted by Council 16 June 2009; and
- *Policy OSH7 – Emergency Evacuation Procedure* – adopted by Council 10 July 2008
- *Policy MC1 – Code of Conduct* – review adopted by Council 20 January 2009 (this policy that applies to members of Council and staff is not available on the Shire website).

This in itself may not be inappropriate; however other policies that are affected by or linked to legislation should be reviewed if legislation or other factors change. For example:

- *Policy CPMC5 – Elected Member Entitlements* does not recognise that the Salaries and Allowances Tribunal has, since 2013, made an annual determination of the meeting fees, allowances and reimbursements payable to elected members, following related changes to the *Local Government (Administration) Regulations 1996*.

The Shire's policies require urgent review by way of updating information, removing irrelevant policies and ensuring that all policies are effective and applicable.

It is noted that, following discussions with the Shire, the Department's intended recommendation that all policies be reviewed by 30 June 2015 has been amended, and the timeframe extended to 31 December 2015.

Recommendation: 15

That the Council adopts a process and timetable for a structured review of all Council's policies, including a requirement for all policies to be reviewed at least every 4 years.

Recommendation: 16

That Council arranges for the completion of a comprehensive review of its policies and adopts those reviewed policies by 31 December 2015. In meeting that timeframe Council may wish to consider engaging a consultant to complete the review.

9. PURCHASING, PROCUREMENT AND TENDERING

Purchasing policy

The Shire has a Purchasing Policy (CP/FIN-3204) in place which was adopted by Council on 18 June 2013 and was due for review on 6 May 2014.

The Policy states under clause 1.7.14 that:

All records associated with the tender process or direct purchase process must be recorded and retained. For direct purchasing process this includes:

- *Quotation documentation;*
- *Internal documentation;*
- *Order forms and requisitions.*

"Check List" form is to be completed, signed and attached to the duplicate copy of the Purchase Order, along with copies of quotes.

Regulation 11A of the *Local Government (Functions and General) Regulations 1996* states:

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$100,000 or less or worth \$100,000 or less.*
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for and in respect of, entering into contracts referred to in subregulation (1).*
- (3) A purchasing policy must make provision in respect of:*
 - (a) the form of quotations acceptable; and*
 - (b) the recording and retention of written information, or documents, in respect of:*
 - (i) all quotations received; and*
 - (ii) all purchases made.*

Tender Register

A Tender Register is kept by the CEO of the Shire of Wyndham – East Kimberley which contains information concerning tenders invited by the Shire. The Register for 2013 / 2014 was examined.

The information recorded in the register was incomplete as it did not include details of the Council decision to invite tenders or the name of each tenderer whose tender had been opened.

Statutory Requirements

Regulation 17 of the *Local Government (Functions and General) Regulations 1996* states:

- (1) The CEO is responsible for keeping the tenders register and making it available for public inspection.
- (2) The tenders register is to include, for each invitation to tender:
 - (a) a brief description of the goods or services required; and
 - (b) particulars of the making of:
 - (i) the decision to invite tenders; and
 - (ii) if applicable, the decision to seek expressions of interest under regulation 21(1); and
 - (c) particulars of:
 - (i) any notice by which expressions of interests from prospective tenderers was sought; and
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under regulation 23(4); and
 - (d) a copy of the notice of the invitation to tender; and
 - (e) the name of each tenderer whose tender has been opened; and
 - (f) the name of any successful tenderer.
- (3) The tenders register is to include for each invitation to tender the amount of the consideration or a summary of the amount of the consideration sought in the tender accepted by the local government.

Regulation 11 of the *Local Government (Functions and General) Regulations 1996* states:

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100,000 unless subregulation (2) states otherwise.

The Regulation also states

- (2) Tenders do not have to be publicly invited according to the requirements of this Division if:
 - (b) the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;

Issues Identified

The Shire has utilised WALGA's preferred list of suppliers when appropriate for the procurement of various goods or services, including those that would otherwise require the calling of tenders.

The Shire has also invited tenders for plant hire based on hourly rates and compiled a list of accepted tenderers to be used as required (referred to as a 'panel tender').

No information was provided to indicate the process by which contractors, once included on the list of panel tenderers, were selected for the allocation of work.

There are instances, however, where the Shire appears to have contracted goods and services where the contract consideration has exceeded the tender threshold of \$100,000, but tenders have not been invited as required by legislation.

Anecdotal information provided indicated that some of these occurrences may have been due to urgently required flood mitigation works, authorised under the emergency provisions of section 6.8(1)(c) of the *Local Government Act 1995*.

There were no examples sighted, however, of such emergency expenditure being reported to the next ordinary meeting of the Council, as required by section 6.8(2)(b).

Examples of expenditure of more than \$100,000 that appear to have been occurred without tenders being invited include:

REDACTED

Between November 2013 and August 2014 more than REDACTED in total was paid to 14 contractors and suppliers, individual totals ranging in amounts from REDACTED

REDACTED

The Shire's tender register records tenders being invited on eight occasions during that period.

There is no central coordination or responsibility in regard to the processes of procurement and contracts, including the inviting of tenders for the Shire, with each functional area administering its own procurement and tender processes. This appears to have resulted in some inconsistency in meeting the tender provisions of the *Local Government Act 1995 and Regulations* and may have contributed to a number of complaints from local businesses related to the Shire's tender processes.

Recommendation: 17

That Council directs the CEO to review the Shire's purchasing and procurement procedures to ensure that contracts for goods and services that are \$100,000 or more and not exempt, are subject to a tender process in accordance with Regulation 11 of the *Local Government (Functions and General) Regulations 1996*.

Recommendation: 18

That the CEO reviews the procedures and practices concerning the recording of information required by Regulation 17 of the *Local Government (Functions and General) Regulations 1996* to ensure that the Tender Register complies with the regulations.

(The Department notes that as at finalisation of this report, the Shire has advised of the CEO's completion of this review.)

Recommendation: 19

That responsibility for the oversight of all contracts and procurement including tenders undertaken by the Shire be allocated by the CEO to a single Director, to ensure consistency of process and compliance with the requirements of the Local Government Act 1995 and the *Local Government (Functions and General) Regulations 1996*.

10. CEO AND SENIOR EMPLOYEE CONTRACTS

The employment of a person employed as a CEO or a senior employee has to be governed by written contract. Contracts for senior employees Mr Kevin Hannagan, Acting CEO and Director Infrastructure, Ms Natalie Octoman, Director Corporate Services and Ms Louise Gee, Director Community Development, were examined to determine compliance with the legislative requirements. Chief Executive Officer, Mr Gary Gaffney, had very recently been on leave and then resigned resulting in Mr Hannagan being appointed as Acting CEO.

Statutory Requirements

Section 5.39 of the *Local Government Act 1995* provides in part:

- (1) *Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.*
[Subsection (1a) refers to acting for limited periods and is not relevant]
- (2) *A contract under this section:*
 - (a) *in the case of an acting or temporary position, cannot be for a term exceeding one year;*
 - (b) *in every other case, cannot be for a term exceeding 5 years.*
- (3) *A contract under this section is of no effect unless:*
 - (a) *the expiry date is specified in the contract; and*
 - (b) *there are specified in the contract performance criteria for the purpose of reviewing the person's performance;*

Section 5.38 of the Act provides:

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

Issues identified

The employee files for each of the three current positions of Director contained a copy of the contract of employment, however none of the three contracts sighted included performance criteria (KPI's) as prescribed by section 5.38 of the Act.

As two of the Directors had been employed within the past 12 months, neither was overdue for a performance review; however there was no record available of the third Director's performance having been reviewed since 2011.

Recommendation: 20

That the Council ensures that employment contracts for the CEO and Senior employees include appropriate performance criteria and that performance reviews are completed at least once for each year of the contract.

11. GIFT, ELECTORAL GIFT AND COMPLAINTS REGISTERS**11.1 Gift and electoral gift registers**

Local government CEO's are required to maintain a register that records notifiable gifts accepted by elected members and employees. A register is also required to be established and maintained to record electoral gifts accepted by electoral candidates and given by donors.

Regulation 12(5) of the *Local Government (Rules of Conduct) Regulations 2007* prescribes the register required to record notifiable gifts accepted by elected members and Regulation 34B(5) of the *Local Government (Administration) Regulations 1996* prescribes the register to record notifiable gifts accepted by employees.

Regulation 30G(1) of the *Local Government (Elections) Regulations 1997* prescribes the register required to record electoral gifts.

Issues identified

Neither a gift nor an electoral gift register was able to be produced. The advice of senior staff was that to their knowledge, no notifiable gifts had been reported.

11.2 Register of Complaints

The complaints officer for each local government is required to maintain a register of complaints, which is to record all complaints considered by the Local Government Standards Panel that result in action under section 5.110(6)(b) or (c).

Statutory Requirement

The register of complaints is to include, for each recorded complaint:

- the name of the council member about whom the complaint is made;
- the name of the person who made the complaint;
- a description of the minor breach that the standards panel finds has occurred; and
- details of the action taken under section 5.110(6)(b) or (c).

Conclusion

It was noted that there were no such complaints at the time of the Probity Audit.

Recommendation: 21

That the CEO ensures that gift, electoral gift registers are established and maintained as required by legislation and that the Shire's complaints officer is aware of the legislative requirements related to the processing and reporting of complaints, including the establishment of a complaints register.

GENERAL CONCLUSION

The Shire of Wyndham – East Kimberley Probity Compliance Audit has found that the local government is not statutorily compliant with a number of provisions of the *Local Government Act 1995* (the Act) and associated regulations, and in a number of areas has failed to follow appropriate standards of practice in regard to governing the affairs of the local government.

The Probity Audit has identified enough issues concerning the local government's financial management and compliance with the Act to indicate that members of council would benefit from training. It would also be beneficial for the newly appointed CEO to participate in all training undertaken.

Training should cover areas that include:

- Roles and responsibilities
- Declaring interests in meetings
- Financial interests returns
- Meeting processes and procedures

The following recommendation is made to the Director General to deal with this report:

Recommendation: 22

That the Director General of the Department of Local Government and Communities presents the Shire of Wyndham – East Kimberley 2014 Probity Compliance Audit Report to the Council of the Shire for its comment and response, within 28 days, on what action it proposes to take in implementing the report recommendations prior to determining what further action, if any, should be taken by the Minister and the Department on this matter.

APPENDIX 1

Reference No & Subject:
File Reference:
Proponent/s:
Author's Name and Position:
Previously Before Council:
Disclosure of Interest:
Nature of Council's Role in the Matter:
<ul style="list-style-type: none"> • Advocacy • Executive • Legislative • Review • Quasi-Judicial
Purpose of the Report:
Background:
Comments/Details:
Implications to Consider:
<ul style="list-style-type: none"> ❖ Consultation ❖ Strategic ❖ Policy ❖ Financial ❖ Legal and Statutory ❖ Risk
Voting Requirements
Officer Recommendation - Item No
Reason for Varying the Officer's Recommendation

APPENDIX 2

DECLARATION OF INTEREST FORM

In accordance with Section 5.65(1) of the *Local Government Act 1995* a member who is a Councillor or a Shire employee who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest.

Meeting Date: _____

Meeting: _____

Name and Position of Person Disclosing the Interest

Name: _____

Position: _____

INTEREST: *FINANCIAL / PROXIMITY / IMPARTIAL*

Item Number: _____

Item Title: _____

Nature of Interest: _____

Withdrew at: _____

Returned at: _____

DECLARED TRIVIAL **Y / N**

MOVED: _____ **SECONDED:** _____

CARRIED / LOST

Signature of Person Declaring Interest

Date

PROBITY COMPLIANCE AUDIT - IMPLEMENTATION STRATEGY

RECOMMENDATION 1

That the Council reviews the Shire of Wyndham East Kimberley Standing Orders Local Law 2003, to reflect current best practice and assist in the effective and efficient conduct of meetings of Council.

Responsible Officer: CEO, Carl Askew

Current Status: In progress

Initial review to be undertaken prior to presenting to Council via a Briefing Session and subsequent formal report. Process to commence in June 2015 with an intention that the

To be Actioned: Local Law to be finalised after the Council Elections in October 2015.

Timeframe for Completion: February 2016

RECOMMENDATION 2

That the Council adopts a more comprehensive agenda report format as provided at Appendix 1 to this report, to be used for all agenda reports to Council

Responsible Officer: CEO, Carl Askew

Current Status: In progress

To be Actioned: Administration to review the Council report format during June/July 2015 with the new format to be implemented in August 2015

Timeframe for Completion: August 2015

RECOMMENDATION 3

That Council and senior staff familiarise themselves with the DLGC's Operational Guideline No. 07 'Clarity in Council Motions' to assist in producing officer recommendations, and resolutions passed by Council, that clearly describe the expected outcome, how it is to be achieved, by when, by whom at what cost.

Responsible Officer: CEO, Carl Askew

Current Status: In progress

To be Actioned: Guideline No. 07 circulated in June 2015 for discussion at the July 2015 Council Briefing Session

Timeframe for Completion: July 2015

RECOMMENDATION 4

That Council directs the CEO to remove the elected member and CEO information reports, currently included under item heading "13. Reports", from meeting agenda's and includes those reports in a separate councillor information bulletin

Responsible Officer: CEO, Carl Askew

Current Status: Removed as of May 2015 OCM agenda and minutes.

To be Actioned: Completed

Timeframe for Completion: Completed

RECOMMENDATION 5

That Council re-visits any recommendations made to Council by the Audit (Finance and Risk) Committee and subsequent actions taken by the administration to ensure that those actions have the necessary authorisation.

Responsible Officer: Director Corporate Services, Natalie Octoman

Current Status: Legal advice has been sought.

To be Actioned: A report will be presented to Council in July for consideration.

Timeframe for Completion: July 2015

RECOMMENDATION 6

That in future the Council receives minutes of meetings of the Audit (Finance and Risk) Committee meetings and adopts or rejects any Committee recommendations by a decision of Council.

Responsible Officer: Director Corporate Services, Natalie Octoman

Current Status: Implemented as of May 2015 OCM

To be Actioned: Completed

Timeframe for Completion: Completed

RECOMMENDATION 7

That the CEO ensures that in order to be readily identified, disclosures of interest recorded in meeting minutes are recorded at the beginning of the agenda item in question, rather than at the end of the previous agenda item.

Responsible Officer: CEO, Carl Askew

Current Status: Implemented as of May 2015 OCM

To be Actioned: Completed

Timeframe for Completion: Completed

RECOMMENDATION 8

That relevant council members and employees make the necessary corrections to time periods, dates, missing signatures and blank sections of their returns by amending each return or replacing the return with the correct information where applicable.

Responsible Officer: CEO, Carl Askew

Current Status: The only current issues (as identified by Shire Auditors) are three incorrect dates on Councillors 2013/14 Annual Returns and one blank section in an employee 2013/14 Annual Return.

To be Actioned: 4 returns have been corrected.

Timeframe for Completion: June 2015

RECOMMENDATION 9

That the CEO implements a process to check completed financial interest returns, with any discrepancies being brought to the attention of the relevant elected member or staff member for correction.

Responsible Officer: CEO, Carl Askew

Current Status: Financial interest returns for 2014/15 will be distributed in July and are required to be completed by 31 August 2015.

A process has been implemented by the Governance Officer to review all returns as required. The CEO will check all returns prior to signing acknowledgement letters receipting the annual return.

To be Actioned: annual return.

Timeframe for Completion: 31 August 2015

RECOMMENDATION 10

That council members and senior employees receive training on the completion and recording of information in financial interest returns.

Responsible Officer: CEO, Carl Askew

Current Status: Induction packages for Elected Members and employees updated to include advice on how to record information in financial interest returns.

To be Actioned: Online webinar training to be arranged for a future Council Briefing Session (July or August 2015)

Timeframe for Completion: August 2015

RECOMMENDATION 11

That the CEO reviews which employee positions should be required to complete Primary and Annual Returns.

Responsible Officer: CEO, Carl Askew

Advice is being sought from the Department. It is the officers understanding that both Section 5.75 and 5.76 of the LG Act, require primary and annual returns to be completed by a "relevant person". A relevant person is defined in section 5.74 as a person who is a council member or a designated employee. A designated employee is also defined in section 5.74 as: a. A CEO; b. An employee, other than the CEO, to whom any power or duty has been delegated under Division 4.

Division 4 specifically relates to local government employees, senior employees, functions of the CEO, delegation of powers and duties to the CEO and the CEO's delegations of powers and duties to other employees, etc. The officer's interpretation is that as the CEO sub-delegates some of his powers and duties under Division 4, then there is a clear requirement for those employees holding sub-delegations to complete a primary and subsequent annual returns. At present all employees with a delegation from the CEO complete a primary and annual return in line with the understanding of the Act.

Current Status:

To be Actioned: Waiting for advice from the Department.

Timeframe for Completion: 31 August 2015

RECOMMENDATION 12

That council members and key staff receive training regarding the statutory requirements for disclosure of interests in meetings and the recording of the details of disclosures in the minutes of the meetings relating to those disclosures.

Responsible Officer: CEO, Carl Askew

Training was delivered by WALGA consultant to Elected Members in July 2014. In addition, information via DLGC 'thumb drives' and info cards were handed to all Elected Members and senior staff. Additional training and a webinar was delivered in September 2014 by DLGC.

Current Status:

To be Actioned: Completed

Timeframe for Completion: Completed

RECOMMENDATION 13

That the CEO prepares a form that assists elected members to comply with the legislative requirements for the disclosure of interests in meetings.

Responsible Officer: CEO, Carl Askew

Current Status: In progress

To be Actioned: Current form to be reviewed. Amended form to be circulated to Elected Members for discussion at the July 2015 Council Briefing Session before implementation.

Timeframe for Completion: July 2015

RECOMMENDATION 14

That the CEO reviews the Shire's 2014/15 Delegations Register as a matter of urgency, for consideration and adoption by Council, in order to remove unnecessary delegations and to improve the standard of information contained in delegations recorded in the Register.

Responsible Officer: CEO, Carl Askew

Current Status: A consultant was engaged by the Shire in December 2014 to commence an initial review of the Delegations & Sub Delegations Register.

To be Actioned: Delegations will be taken to the July 2015 Council Briefing Session for review with a formal report to Council in August 2015.

Timeframe for Completion: August 2015

RECOMMENDATION 15

That the Council adopts a process and timetable for a structured review of all Council's policies, including a requirement for all policies to be reviewed at least every 4 years.

Responsible Officer: CEO, Carl Askew

Current Status: Process and timetable was adopted by Council at the April 2015 OCM

To be Actioned: Completed

Timeframe for Completion: Completed

RECOMMENDATION 16

That Council arranges for the completion of a comprehensive review of its policies and adopts those reviewed policies by 31 December 2015. In meeting that timeframe Council may wish to consider engaging a consultant to complete the review.

Responsible Officer: CEO, Carl Askew

Current Status: A policy review schedule is in place so that all policies will be reviewed by the end of December 2015

To be Actioned: Policies to be considered by Council between now and December 2015

Timeframe for Completion: December 2015

RECOMMENDATION 17

That Council directs the CEO to review the Shire's purchasing and procurement procedures to ensure that contracts for goods and services that are \$100,000 or more and not exempt, are subject to a tender process in accordance with Regulation 11 of the *Local Government (Functions and General) Regulations 1996*.

Responsible Officer: Director Corporate Services, Natalie Octoman

Current Status: Revised purchasing policy (adopted by Council 26 May 2015) incorporates this requirement and has been distributed to all officers for adherence.

To be Actioned: Currently incorporating the requirements into the Purchasing Process Organisational Directive and associated templates.

Timeframe for Completion: July 2015

RECOMMENDATION 18

That the CEO reviews the procedures and practices concerning the recording of information required by Regulation 17 of the *Local Government (Functions and General) Regulations 1996* to ensure that the Tender Register complies with the regulations.

Responsible Officer: Director Corporate Services, Natalie Octoman

Current Status: Tender register is now compliant.

To be Actioned: Currently incorporating the requirements into the Purchasing Process Organisational Directive and associated templates to ensure compliance is maintained.

Timeframe for Completion: July 2015

RECOMMENDATION 19

That responsibility for the oversight of all contracts and procurement including tenders undertaken by the Shire be allocated by the CEO to a single Director, to ensure consistency of process and compliance with the requirements of the Local Government Act 1995 and the *Local Government (Functions and General) Regulations 1996*.

Responsible Officer: Director Corporate Services, Natalie Octoman

Current Status: Director Corporate Services now has responsibility for the oversight of all contracts and procurement.

To be Actioned: An Organisational Directive is being prepared for staff. Ongoing management and performance in the area of contracts and procurement will require the consideration of additional

dedicated resources as part of 2015/16 budget.

Timeframe for Completion: September 2015

RECOMMENDATION 20

That the Council ensures that employment contracts for the CEO and Senior employees include appropriate performance criteria and that performance reviews are completed at least once for each year of the contract.

Responsible Officer: CEO, Carl Askew

Current Status: In progress

To be Actioned: All senior staff contracts and KPI's to be reviewed by the CEO, including the requirement for annual performance reviews.

Timeframe for Completion: December 2015

RECOMMENDATION 21

That the CEO ensures that gift, electoral gift registers are established and maintained as required by legislation and that the Shire's complaints officer is aware of the legislative requirements related to the processing and reporting of complaints, including the establishment of a complaints register.

Responsible Officer: CEO, Carl Askew

Current Status: All registers are in place and maintained by the Governance team. A Complaints Management Policy and Code of Conduct Complaints Handling Organisational Directive have recently been endorsed by Council.

To be Actioned: Public comment was sought on the Complaints Management Policy and will be provided to the Council at the June 2015 OCM.

Timeframe for Completion: June 2015

RECOMMENDATION 22

That the Director General of the Department of Local Government and Communities presents the Shire of Wyndham East Kimberley 2014 Probity Compliance Audit Report to the Council of the Shire for its comment and response, within 28 days, on what action it proposes to take in implementing the report recommendations prior to determining what further action, if any, should be taken by the Minister and the Department on this matter.

Responsible Officer: DLGC Director General / CEO, Carl Askew

Current Status: Probity Compliance Audit Report to be formally presented to the Council for comment and response at the 23 June 2015 OCM

To be Actioned: Implementation strategy to be provided to the DLGC after Council has considered the matter at the June 2015 OCM

Timeframe for Completion: July 2015

COUNCIL DECISION

Minute No.11018

Moved: Cr S Cooke

Seconded: Cr D Learbuch

That Council moves out from behind closed doors.

Carried Unanimously 8/0

Council moves out from behind closed doors at 8.01pm.

18. CLOSURE

The Shire President declares the meeting closed at 8.01pm.